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Transport (Compliance and Miscellaneous) Act 1983

TRANSPORT (TAXI-CAB LICENCES – MARKET AND TRADING) REGULATIONS 2005

Notice of Specification of Rules

I, Hector McKenzie, Director of Public Transport, under regulation 7(1)(b) of the Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005 (the Regulations) and all other enabling powers, hereby specify the rules set out below, entitled the ‘Taxi-cab Licence Market and Trading Rules’, for the purposes of the Regulations.

Dated 19 May 2011

HECTOR McKENZIE
Director of Public Transport

SPECIAL

Transport (Compliance and Miscellaneous) Act 1983
Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005

TAXI-CAB LICENCE MARKET AND TRADING RULES

Transport (Compliance and Miscellaneous) Act 1983
Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005

TAXI-CAB LICENCE MARKET AND TRADING RULES

1. PRELIMINARY

1.1 Introduction

These Rules are specified under Regulation 7 of the Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005 and take effect from and including 19 May 2011.

1.2 Interpretation of these Rules

These Rules do not include the table of contents.

1.3 For the purposes of these Rules, an act or omission by a Designated Taxi-cab Licence Trader includes any act or omission caused directly or indirectly by the Designated Taxi-cab Licence Trader, or its officers, employees, agents, contractors, associates and representatives.

1.4 Where a Rule requires something to be done by a day that is not a business day, it must be done by the following business day.

1.5 Where a Rule refers to time it means local time unless the Rule specifically refers to another time.

1.6 Notice

1.6.1 Any notice required to be given under these Rules must be given in writing, unless otherwise specified, and may be –

- (a) in the case of a notice given to a Designated Taxi-cab Licence Trader, handed to that Designated Taxi-cab Licence Trader or a Responsible Person appointed by that Designated Taxi-cab Licence Trader; or
- (b) in all cases, left at, or sent by ordinary post or facsimile, to the address or facsimile number nominated for that purpose by the party to whom the notice is to be given, as amended from time to time by written advice to the other party.

1.6.2 A notice or document is deemed to have been given –

- (a) at the time it is handed to a person referred to in Rule 1.6.1(a);
- (b) at the time of delivery, if delivered;
- (c) on the second business day after posting, if posted; and
- (d) when it is received, if sent by facsimile. A successful facsimile transmission report is sufficient for this purpose.

1.7 Definitions – unless the context otherwise requires:

Accountant means member of CPA Australia, the Institute of Chartered Accountants of Australia or any similar body approved by the Director.

ASIC means Australian Securities and Investments Commission.

Act means the **Transport (Compliance and Miscellaneous) Act 1983**.

APRA means the Australian Prudential Regulation Authority.

Associate means relevant person viz. directors, secretaries of bodies corporate to which the primary person is related, or which controls the primary person or a body corporate that is controlled by the entity that controls the primary person.

Business day means a day, not being a Saturday or Sunday or a public holiday, on which banks are open for business in Melbourne.

Business name means name, style, title or designation under which a business is carried on by a Designated Taxi-cab Licence Trader.

Compliance Officer means a person appointed by the General Manager or the Deputy General Manager in accordance with Rule 5.5.1.

Corporations Act means the **Corporations Act 2001** of the Commonwealth.

Designated taxi-cab licence means a designated taxi-cab licence within the meaning of regulation 4 of the Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005.

Designated Taxi-cab Licence Trader means a person approved by the General Manager or the Deputy General Manager to trade in designated taxi-cab licences.

Designated Taxi-cab Licence Trader Certificate means a certificate which provides evidence of holding a Designated Taxi-cab Licence Trader approval which is –

- (a) issued by the General Manager or the Deputy General Manager in a form determined by the General Manager; and
- (b) advises that the holder is approved to act as a Designated Taxi-cab Licence Trader.

Deputy General Manager means the Deputy General Manager of the VTD.

Director means the Director of Public Transport.

Employee means an employee of a Designated Taxi-cab Licence Trader and includes an independent contractor who acts for or by arrangement with the Designated Taxi-cab Licence Trader in the conduct of its business as a Designated Taxi-cab Licence Trader.

Family company means, in relation to a person, a corporation controlled by the person or the immediate family of the person.

Financial documents means the documents an entity is required to lodge with ASIC under accounts provisions of the Corporations Act.

General Manager means the General Manager of the VTD.

Holding company has the same meaning as that term in the Corporations Act, i.e. in relation to a body corporate ('first body'), a body corporate ('second body') which:

- (a) controls the composition of the board of the first body;
- (b) is in a position to cast or control the casting of more than one half of the maximum votes that can be cast at a general meeting of the first body, or
- (c) holds more than one half of the issued share capital of the first body.

Insolvent under administration has the meaning given to that term in the Corporations Act and includes a person who is an undischarged bankrupt under the **Bankruptcy Act 1966** or the law of an external territory of Australia or of foreign country.

Licence Package means a Taxi-cab Licence offered for transfer or assignment together with a vehicle, or other goods/chattels for sale.

NSP means a person (within the meaning of Division 4 of Part VI of the Act) who is accredited as a provider of taxi-cab network services under that division.

Person means a natural person or a corporation.

Prohibited Conduct means:

- (a) conduct which amounts to impropriety of character and which is indicative of a failure to understand or practice just and equitable principles in the transaction of business in relation to a client or the public; or
- (b) unsatisfactory professional conduct, where the conduct is such that it involves a substantial or consistent failure to reach reasonable standards of competence and diligence.

Records means the books of account and other documents and electronic records relating to the business of a Designated Taxi-cab Licence Trader.

Regulations means the Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005.

Related party has, in relation to a body corporate, the meaning given in section 228 of the Corporations Act.

Relative means, in relation to a person, the person's spouse, domestic partner, parent or remoter lineal ancestor, child or remoter issue, or brother or sister of the person.

Relevant person means, in relation to a Designated Taxi-cab Licence Trader:

- (a) in the case of a corporate Designated Taxi-cab Licence Trader, a director, company secretary, other officer, employee, contractor, consultant or representative of the Designated Taxi-cab Licence Trader or a substantial shareholder in the Designated Taxi-cab Licence Trader;
- (b) in the case of a natural person Designated Taxi-cab Licence Trader, an employee, contractor, consultant, or representative of the Designated Taxi-cab Licence Trader;
- (c) a relative of the Designated Taxi-cab Licence Trader or of any of the above persons; or
- (d) family companies or trusts of the Designated Taxi-cab Licence Trader or of any of the above persons.

Responsible Person means

- (a) a Designated Taxi-cab Licence Trader who is a natural person; or
- (b) a person appointed by a Designated Taxi-cab Licence Trader and approved by a VTD Officer in accordance with Rule 3.2 who carries on the business of a Designated Taxi-cab Licence Trader on behalf of that Designated Taxi-cab Licence Trader.

Review Committee means the committee established by the Director under Rule 8.2.1.

Rules means the rules set out in this document.

Secretary means the Secretary to the Department of Transport

Substantial holding means a holding in a body corporate by a person or their associates of five per cent (5%) or more of the voting shares in that body corporate.

Taxi-cab Licence means a designated taxi-cab licence.

Trader means a person who trades in designated taxi-cab licences within the meaning of section 150A of the Act.

Victorian Taxi Directorate means the business unit by that name within the Department of Transport.

VTD means the Victorian Taxi Directorate.

VTD Accountant means an accountant appointed by the General Manager under Rule 5.1.

VTD Officer means an officer employed in the Department of Transport who is authorised by the General Manager to perform functions and exercise powers under these Rules either generally or in a particular case or cases.

VTD Website means a website operated by VTD at www.taxi.vic.gov.au

2. APPROVAL OF DESIGNATED TAXI-CAB LICENCE TRADERS

2.1 Persons Deemed to be approved

2.1.1 Any person who at 26 March 2011 was the holder of a current and valid licence issued by BSX Services Pty Ltd approving that person to act as a Broker in relation to the transfer or assignment of a taxi-cab licence through the BSX Taxi Market is deemed to be approved under these Rules until the earlier of –

- (a) the expiry date of that person's BSX Broker licence current at 26 March 2011;
- (b) 26 March 2013;
- (c) the issue of an approval by the General Manager or the Deputy General Manager to trade in designated taxi-cab licences under these Rules; or

- (d) a decision by the General Manager or the Deputy General Manager to terminate, suspend or cancel that person's deemed approval.
- 2.1.2 A deemed approval under Rule 2.1.1 is subject to the applicant continuing to comply with these Rules, including the eligibility requirements.
- 2.2 Eligibility Requirements for approval to trade in designated taxi-cab licences**
- 2.2.1 To be eligible for approval to trade in designated taxi-cab licences a corporate applicant –
- (a) must have at least half of its directors who are residents of a state or territory of Australia;
 - (b) must ensure that at least half of its directors satisfy the principal requirements in Rule 2.2.3;
 - (c) must satisfy VTD that –
 - (i) each director who is not required to satisfy the principal requirements set out in Rule 2.2.3; and
 - (ii) each person who has a substantial holding in the corporate applicant or its holding company –
is of good character and integrity and has undertaken to the General Manager or the Deputy General Manager and to the applicant to comply with and be bound by these Rules in connection with the business to be conducted by the applicant as a Designated Taxi-cab Licence Trader;
 - (d) must be represented by a Responsible Person;
 - (e) must not have any provisions in its constitution which would prevent the applicant from complying with these Rules, and
 - (f) must have the necessary financial resources to meet its obligations as a Designated Taxi-cab Licence Trader.
- 2.2.2 To be eligible for approval to trade in designated taxi-cab licences, an applicant who is a natural person –
- (a) must satisfy the principal requirements set out in Rule 2.2.3; and
 - (b) must have the necessary financial resources to meet the obligations of a Designated Taxi-cab Licence Trader.
- 2.2.3 To satisfy the principal requirements for the purposes of Rules 2.2.1 and 2.2.2, a person must –
- (a) satisfy the General Manager or the Deputy General Manager that they have at least two years relevant experience. Relevant experience is defined as –
 - (i) experience in a commercial environment that relates to the buying, selling and/or leasing of assets; or
 - (ii) experience in acting as a business principal, including undertaking the day to day management of a commercial enterprise –
and, without limiting the discretion of the General Manager or the Deputy General Manager in this regard, includes –
 - (iii) facilitating the transfer or assignment of taxi-cab licences at a NSP or other business;
 - (iv) acting as a licensed securities dealer; or
 - (v) acting as a real estate agent or a real estate agent's representative;
 - (b) not have been convicted or found guilty of any dishonesty or fraud offence under the **Crimes Act 1958** or other Victorian legislation (or the corresponding provisions of the law of another jurisdiction);

- (c) not be convicted or found guilty of any Level 1 or Level 2 offences as defined in section 86 of the Act (or the corresponding offences of the law of another jurisdiction);
 - (d) not have any disqualification from managing corporations pursuant to Part 2D.6 of the Corporations Act; and
 - (e) not be insolvent under administration within the meaning of these Rules.
- 2.3 Subject to Rule 2.4, an application for approval to trade in designated taxi-cab licences must include –
- (a) if the applicant is a corporation, for each of the directors or officeholders of the corporation, two references declaring the good character and repute of the person and a satisfactory National Police Certificate; and
 - (b) if the applicant is a natural person, two references declaring the good character and repute of the applicant and a satisfactory National Police Certificate in respect of the applicant.
- 2.4 References declaring good character and a satisfactory National Police Certificate in respect of a person are not required to be submitted under Rule 2.3 if the person –
- (a) holds a current accreditation under Division 4 of Part VI of the Act; or
 - (b) is a relevant person, within the meaning of Division 4 of Part VI of the Act, in relation to a person, within the meaning of that Division, who holds a current accreditation under that Division.
- 2.5 In order to obtain approval to trade in designated taxi-cab licences an applicant must –
- (a) lodge with VTD a fully completed application in the form required by the General Manager from time to time; and
 - (b) provide to VTD any other documents or information reasonably required by General Manager, the Deputy General Manager or a VTD Officer from the applicant, or any other person, in relation to the application.
- 2.6 **Application for approval to trade in designated taxi-cab licences**
- 2.6.1 Subject to Rule 2.6.2, the General Manager or the Deputy General Manager will determine an application within 90 days of receiving a fully completed application.
- 2.6.2 If, at any time before an application is determined, the applicant, a director of the applicant, or a person proposed as a Responsible Person by the applicant is, or becomes subject to, any pending court action, whether civil or criminal, the General Manager or the Deputy General Manager may defer the determination of the application until the expiry of 90 days after the final determination of that action.
- 2.7 **Grant of approval to trade in designated taxi-cab licences**
- 2.7.1 If the General Manager or the Deputy General Manager is satisfied that an applicant satisfies the eligibility requirements for approval to trade in designated taxi-cab licences, he or she shall approve the applicant to trade in designated taxi-cab licences and issue to the applicant a Designated Taxi-cab Licence Trader Certificate.
- 2.7.2 An approval under Rule 2.7.1 is subject to the applicant continuing to comply with these Rules, including the eligibility requirements.
- 2.7.3 An approval under Rule 2.7.1 remains in force until –
- (a) it is surrendered or terminated in accordance with these Rules; or
 - (b) the expiry of a period not exceeding three years determined by the General Manager or the Deputy General Manager and specified in the Designated Taxi-cab Licence Trader Certificate –
- whichever is the earlier.

- 2.7.4 A Designated Taxi-cab Licence Trader Certificate remains the property of the Director and must be returned immediately by a Designated Taxi-cab Licence Trader if a VTD Officer requests in writing that the Designated Taxi-cab Licence Trader do so.
- 2.7.5 A Designated Taxi-cab Licence Trader Certificate cannot be transferred by the holder to any other person.

2.8 Refusal to Grant approval to trade in designated taxi-cab licences

- 2.8.1 If the General Manager or the Deputy General Manager is not satisfied that an applicant satisfies the eligibility requirements for approval to trade in designated taxi-cab licences, the General Manager or the Deputy General Manager shall give the applicant written notice of intention to refuse to approve the applicant to trade in designated taxi-cab licences which must –
- (a) set out the reasons for the proposed refusal; and
 - (b) give the applicant the opportunity to make submissions to the General Manager or the Deputy General Manager (as the case requires) within 14 days of the date on which the notice is deemed to have been given under Rule 1.6.2.
- 2.8.2 The General Manager or the Deputy General Manager must not refuse an application for approval to trade in designated taxi-cab licences –
- (a) before the expiry of the 14 days period referred to in Rule 2.8.1; and
 - (b) without taking into account any submissions made in accordance with that rule.
- 2.8.3 Subject to Rule 2.8.2, the General Manager or Deputy General Manager may, by notice in writing given to the applicant, refuse to approve the applicant to trade in designated taxi-cab licences and confirm the reasons for that refusal.
- 2.8.4 An applicant who is refused approval to trade in designated taxi-cab licences may apply for review of that decision by the Review Committee.
- 2.8.5 An application under Rule 2.8.4 must be made within 28 days of the date on which written notice of the refusal under Rule 2.8.3 is deemed to have been given under Rule 1.6.2.

2.9 Liability for Costs

An applicant must meet its own expenses and costs incurred in connection with the determination of an application.

3. RESPONSIBLE PERSON

3.1 Functions of a Responsible Person

- 3.1.1 A Responsible Person is a natural person who conducts the business of a Designated Taxi-cab Licence Trader either as that Designated Taxi-cab Licence Trader or on the Designated Taxi-cab Licence Trader's behalf.
- 3.1.2 A Responsible Person must ensure that the business of the Designated Taxi-cab Licence Trader is conducted in compliance with these Rules.

3.2 Appointment of a Responsible Person

- 3.2.1 To be eligible to act as a Responsible Person, a person must satisfy the principal requirements set out in Rule 2.2.3.
- 3.2.2 The appointment of a Responsible Person by a Designated Taxi-cab Licence Trader is subject to the approval of a VTD Officer authorised to give such an approval.
- 3.2.3 Applications for approval to appoint a Responsible Person must be made by a Designated Taxi-cab Licence Trader to the VTD in the form prescribed by General Manager from time to time.
- 3.2.4 If the VTD Officer is satisfied that a person satisfies the eligibility requirements to act as a Responsible Person, he or she shall approve the appointment of the person as a Responsible Person and notify the applicant in writing of the approval.

- 3.2.5 If the VTD Officer is not satisfied that a person satisfies the eligibility requirements to act as a Responsible Person, he or she shall –
- (a) refuse to approve the appointment of the person as a Responsible Person, and
 - (b) give the applicant notice in writing of the refusal and the reasons for that refusal within 14 days of the refusal.

3.3 Termination of the Appointment of a Responsible Person

- 3.3.1 A Designated Taxi-cab Licence Trader may terminate its appointment of a Responsible Person by notifying the General Manager of the termination in writing.

- 3.3.2 A VTD Officer authorised to do so may withdraw the approval for a person to act as a Responsible Person in accordance with this rule.

- 3.3.3 Before withdrawing the approval for a person to act as a Responsible Person, the VTD Officer must give the Designated Taxi-cab Licence Trader who appointed the Responsible Person notice in writing of the VTD Officer's intention to withdraw the approval.

- 3.3.4 A notice of intention to withdraw approval under Rule 3.3.3 shall include the reasons for the proposed withdrawal which may include, but are not limited to –

- (a) the Responsible Person no longer satisfying the principal requirements for eligibility in Rule 2.2.3; or
- (b) the Responsible Person becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health.

- 3.3.5 A notice of intention to withdraw approval under Rule 3.3.3 shall provide an opportunity for the Designated Taxi-cab Licence Trader and/or Responsible Person to, within 14 days of the date on which the notice is deemed to have been given under Rule 1.6.2, make submissions to the VTD Officer showing cause why the approval for the person to act as a Responsible Person should not be withdrawn.

- 3.3.6 The VTD Officer must not withdraw the approval for the person to act as a Responsible Person –

- (a) before the expiry of the 14 days period referred to in Rule 3.3.5; and
- (b) without taking into account any submissions made in accordance with that rule.

- 3.3.7 Subject to Rule 3.3.6, the VTD Officer may, by notice in writing given to the Designated Taxi-cab Licence Trader who appointed the Responsible Person, withdraw the approval for the person to act as a Responsible Person.

- 3.3.8 A notice given under Rule 3.3.7 shall –

- (a) confirm the reasons for the withdrawal of approval, and
- (b) specify the date on which the appointment of the Responsible Person will terminate.

3.4 Date of Effect of Termination

The VTD will, as soon as reasonably practicable after, and in any event, within three business days of –

- (a) receiving notification under Rule 3.3.1 that a Designated Taxi-cab Licence Trader has terminated the appointment of a person to act as a Responsible Person; or
- (b) the date on which the approval for a person to act as a Responsible Person terminates under Rule 3.3.7 –

remove the name of the Responsible Person from the Designated Taxi-cab Licence Trader listing on the VTD website.

3.5 Effect of Termination of Appointment

- 3.5.1 A Designated Taxi-cab Licence Trader must –

- (a) ensure that no person whose appointment as its Responsible Person has been terminated is permitted to act as Responsible Person in the conduct of the Designated Taxi-cab Licence Trader's business; and

- (b) within two 2 business days of the date of effect of the termination of the appointment of a Responsible Person, advise affected clients of that termination.
- 3.5.2 For the purpose of Rule 3.5.1(b), an affected client of a Designated Taxi-cab Licence Trader is a client who is a party to a transaction which is not complete at the date of effect of the termination of the appointment of a Responsible Person of the Designated Taxi-cab Licence Trader.

4. RIGHTS, OBLIGATIONS AND LIABILITIES OF A VTD TAXI LICENCE TRADER

4.1 Carrying on Business

4.1.1 A Designated Taxi-cab Licence Trader must –

- (a) conduct its business through a Responsible Person;
 - (b) comply, and ensure that any Responsible Person it appoints complies, with the Act, the Regulations and these Rules in the conduct of its business;
 - (c) be able to demonstrate that he, she or it is at all times –
 - (i) acting in the best interest of the client;
 - (ii) acting ethically, honestly and fairly with his, her or its clients, other Designated Taxi-cab Licence Traders, the taxi industry and members of the public generally;
 - (iii) exercising due skill and diligence;
 - (iv) performing work with reasonable promptness;
 - (v) not engaging in harsh or unconscionable conduct; and
 - (vi) not gaining, or seeking to gain, personally from any information received in the course of undertaking duties for clients;
 - (d) ensure the (and each) Responsible Person maintains up-to-date knowledge of the VTD policies and procedures and the regulatory requirements associated with the transfer and assignment of taxi-cab licences;
 - (e) ensure that each place at which it carries on business is under the supervision and direct control of a Responsible Person who is located at the principal place of business;
 - (f) display its original Designated Taxi-cab Licence Trader Certificate in a prominent place at its principal place of business and a copy at any other place of business;
 - (g) disclose to the VTD the level of fees it charges in the course of its business – the VTD will list such fees on its website as public information;
 - (h) charge its clients in accordance with the fees disclosed to the VTD;
 - (i) not solicit, charge or accept any fee or sum of money in relation to the transfer or assignment of a taxi-cab licence unless that fee or sum of money is fully disclosed and recorded within the relevant taxi-cab licence transfer or assignment agreement; and
 - (j) if involved in a transaction as a principal as well as a Trader, disclose that involvement to every other party to that transaction and to the VTD.
- 4.1.2 For the purposes of Rule 4.1.1(i), a Designated Taxi-cab Licence Trader is a principal in a transaction if –
- (a) that Designated Taxi-cab Licence Trader;
 - (b) a Responsible Person appointed by that Designated Taxi-cab Licence Trader;
 - (c) a relevant person in relation to that Designated Taxi-cab Licence Trader;
 - (d) an associate of that Designated Taxi-cab Licence Trader –
- is the transferor, transferee, assignor or assignee of the Taxi-cab licence which is the subject of the transaction.

- 4.1.3 A Designated Taxi-cab Licence Trader may describe itself as a Designated Taxi-cab Licence Trader subject to any reasonable directions and instructions of the General Manager, the Deputy General Manager or a VTD Officer authorised to give such directions and instructions.
- 4.1.4 A Designated Taxi-cab Licence Trader is responsible for all actions taken by –
- (a) its employees, agents, contractors, representatives and associates;
 - (b) any Responsible Person it has appointed; and
 - (c) any employee, agent, contractor or representative of a Responsible Person –
- in the conduct of the business of the Designated Taxi-cab Licence Trader, whether or not such actions were authorised by the Designated Taxi-cab Licence Trader.
- 4.1.5 A Designated Taxi-cab Licence Trader must obtain the approval of the General Manager, the Deputy General Manager or a VTD Officer authorised to give such an approval for any business name that the Designated Taxi-cab Licence Trader proposes to use to conduct business as a Designated Taxi-cab Licence Trader.
- 4.2 **Orderly Market**
- 4.2.1 A Designated Taxi-cab Licence Trader must not do anything or fail to do anything which would result in the market for the transfer and assignment of taxi-cab licences being other than fair and orderly.
- 4.2.2 A Designated Taxi-cab Licence Trader must not list, promote, advertise or otherwise offer, or make bids in connection with the transfer or assignment of a Taxi-cab licence with the intention of creating, or which the Designated Taxi-cab Licence Trader ought reasonably suspect may create, a false or misleading appearance with respect to the market for, or the price of, any transfer or assignment of a Taxi-cab licence.
- 4.2.3 A Designated Taxi-cab Licence Trader must not knowingly list, promote, advertise or otherwise offer the transfer or assignment of a Taxi-cab licence where such transfer or assignment is conditional upon the transferee or assignee also being required to –
- (a) take a transfer or assignment of any other item including, but not limited to, a taxi vehicle, taxi equipment or other goods; or
 - (b) purchase or otherwise pay to receive any services including, but not limited to, affiliation with a particular provider of taxi-cab network services within the meaning of Division 4 of Part VI of the Act.
- 4.3 **Confidentiality**
- 4.3.1 Except as provided in these Rules, a Designated Taxi-cab Licence Trader must not, and must not permit any Responsible Person it has appointed or any of its officers, employees, agents, contractors or associates or any related party of the Designated Taxi-cab Licence Trader to, use or to disclose to any person any information disclosed to it by a client without the prior written consent of the client.
- 4.3.2 Rule 4.3.1 does not apply to any information which –
- (a) is generally available to the public (other than as a result of the wrongful disclosure by the Designated Taxi-cab Licence Trader); or
 - (b) is required to be disclosed by any law.
- [See also Rule 4.6.4]
- 4.4 **Trust Account**
- 4.4.1 A Designated Taxi-cab Licence Trader is required to maintain in the name of the Designated Taxi-cab Licence Trader, a trust account in accordance with these Rules.
- 4.4.2 A Designated Taxi-cab Licence Trader shall be liable for any trust moneys received from or on behalf of any person by –

- (a) its employees, agents, contractors, representatives or associates;
- (b) any Responsible Person it has appointed; and/or
- (c) employee, agent, contractor, representative or associate of a Responsible Person, acting on behalf of the Designated Taxi-cab Licence Trader whether or not it has authorised the receipt.

4.5 Information to be Provided to the VTD

4.5.1 A Designated Taxi-cab Licence Trader must notify the VTD in writing –

- (a) immediately of the details when the Designated Taxi-cab Licence Trader no longer satisfies the principal requirements set out in Rule 2.2.3 to be a Designated Taxi-cab Licence Trader including, but not limited to, the following circumstances –
 - (i) being convicted or found guilty of any dishonesty or fraud offence under the **Crimes Act 1958** or other Victorian legislation (or the corresponding provisions of the law of another jurisdiction);
 - (ii) being convicted or found guilty of any Level 1 or Level 2 offences as defined in section 86 of the Act (or the corresponding offences of the law of another jurisdiction);
 - (iii) being disqualified from managing corporations pursuant to Part 2D.6 of the Corporations Act;
 - (iv) being insolvent under administration within the meaning of these Rules;
- (b) immediately of the details when one or more directors of a corporate Designated Taxi-cab Licence Trader or a Responsible Person no longer satisfies the principal requirements for eligibility set out in Rule 2.2.3;
- (c) within two business days of any change to the information provided in its application for approval to trade in designated taxi-cab licences, as follows:
 - (i) a change to the address of its place of business or of any other premises at which it carries on business;
 - (ii) the address of any additional premises at which it intends to carry on business;
 - (iii) the address of any premises at which it has ceased to carry on business; and
 - (iv) if the Designated Taxi-cab Licence Trader is a corporation, any changes to its constitution, directors, company secretary or shareholders;
- (d) where there is no Responsible Person in attendance at the business of the Designated Taxi-cab Licence Trader for a period which exceeds seven calendar days, such notification to be given –
 - (i) five business days prior to the commencement of any such period expected to exceed seven calendar days; or
 - (ii) within two business days of becoming aware that such period will exceed seven calendar days;
- (e) within two business days of the resignation of a Responsible Person of the Designated Taxi-cab Licence Trader;
- (f) within one business day if advised by ASIC or its delegates or any other person authorised by the Corporations Act of any action that may be taken against the Designated Taxi-cab Licence Trader or a Responsible Person.

4.5.2 A Designated Taxi-cab Licence Trader must provide the VTD with such other information as is reasonably requested by the General Manager, the Deputy General Manager or a VTD Officer authorised to make the request from time to time, including a signed declaration that the Designated Taxi-cab Licence Trader continues to satisfy all the principal requirements for eligibility set out in Rule 2.2.3.

4.6 Records and Returns

- 4.6.1 A Designated Taxi-cab Licence Trader must maintain, in the English language, and keep at the business address of the Designated Taxi-cab Licence Trader all records –
- (a) required to be kept pursuant to the Act and the Regulations;
 - (b) required to be kept pursuant to these Rules;
 - (c) reasonably required to be kept by the General Manager from time to time –
- and keep those records in a manner which will enable a detailed report to be generated for inspection and use by the General Manager, or the Deputy General Manager or a VTD Officer if required.
- 4.6.2 All returns, schedules and calculations required to be submitted by a Designated Taxi-cab Licence Trader to the VTD in accordance with these Rules must be –
- (a) accurate and prepared in accordance with the Rules; and
 - (b) certified as having been prepared in accordance with the Rules by –
 - (i) in the case of a corporate Designated Taxi-cab Licence Trader, a director of the Designated Taxi-cab Licence Trader; or
 - (ii) otherwise by the Designated Taxi-cab Licence Trader.
- 4.6.3 The information contained in the returns, schedules and calculations referred to in Rule 4.6.2 must be extracted from the books and records of the Designated Taxi-cab Licence Trader and accurately reflect the state of affairs of the Designated Taxi-cab Licence Trader.
- 4.6.4 A Designated Taxi-cab Licence Trader must maintain privacy of information and records in the possession of, or known to, the Designated Taxi-cab Licence Trader and must –
- (a) not disclose to any person information which is confidential to a client. This obligation continues after the relationship between the Designated Taxi-cab Licence Trader and client has ended;
 - (b) keep and maintain accurate financial records of any monies paid to or received from a client, a Designated Taxi-cab Licence Trader, or other person.

[See also Rule 4.3]

4.7 Insurance

- 4.7.1 A Designated Taxi-cab Licence Trader must effect and maintain a professional indemnity insurance policy throughout the term of its Designated Taxi-cab Licence Trader approval. Such insurance shall be for an amount not less than \$5,000,000. The policy shall be with an insurer that is registered with, and regulated by, the APRA under the **Insurance Act 1973** of the Commonwealth. The Designated Taxi-cab Licence Trader must maintain professional indemnity insurance for a period of 6 years after expiration of the term of its Designated Taxi-cab Licence Trader approval.
- 4.7.2 A Designated Taxi-cab Licence Trader must produce to the VTD evidence of currency of its professional indemnity insurance promptly upon a request to do so by the General Manager, the Deputy General Manager or a VTD Officer.
- 4.7.3 A Designated Taxi-cab Licence Trader must notify VTD in writing within 10 business days following the issue of a new professional indemnity insurance policy or the renewal of an existing professional indemnity insurance policy of –
- (a) the amount and nature of the cover;
 - (b) the date on which the cover became effective; and
 - (c) the date on which the cover expires.
- 4.7.4 A Designated Taxi-cab Licence Trader must provide the VTD with a certified copy of the certificate of insurance within 10 business days following the issue of a new, or the renewal of an existing, professional indemnity insurance policy.

5. COMPLIANCE AND DISCIPLINE**5.1 VTD Accountant**

The General Manager may appoint a VTD Accountant.

5.2 During the term of its appointment, the VTD Accountant must not act as auditor of, or provide any accounting services to, any Designated Taxi-cab Licence Trader or any director of a Designated Taxi-cab Licence Trader without the prior written consent of the General Manager or the Deputy General Manager.

5.3 The VTD Accountant will review on behalf of the VTD all documents and returns required to be lodged by Designated Taxi-cab Licence Traders with the VTD under these Rules.

5.4 The VTD Accountant is entitled to request from a Designated Taxi-cab Licence Trader any further information or explanation it reasonably believes is required in relation to any documents or returns lodged with the VTD by that Designated Taxi-cab Licence Trader and the Designated Taxi-cab Licence Trader must comply with the request.

5.5 Compliance Officers

5.5.1 The General Manager or the Deputy General Manager will appoint in writing one or more suitably qualified persons to act as a Compliance Officer.

5.5.2 The General Manager or the Deputy General Manager may at any time direct one or more Compliance Officers to make enquiries to determine whether a Designated Taxi-cab Licence Trader has complied or is complying with these Rules and the terms of its Designated Taxi-cab Licence Trader approval or has engaged or is engaging in Prohibited Conduct.

5.5.3 A Designated Taxi-cab Licence Trader must –

- (a) provide or cause to be provided to a Compliance Officer any accounts, records or documents of any kind whatsoever that are relevant to an inquiry being undertaken by the Compliance Officer;
- (b) provide the Compliance Officer with all reasonable assistance in relation to the inquiry; and
- (c) not unreasonably refuse to allow the Compliance Officer access during business hours to any of the premises from which the business of the Designated Taxi-cab Licence Trader is conducted for the purpose of conducting an enquiry.

5.5.4 A Compliance Officer directed to carry out an enquiry under Rule 5.5.2 will provide a written report to the General Manager or the Deputy General Manager upon the completion of that enquiry.

5.5.5 If a report of a Compliance Officer indicates that, in the Compliance Officer's opinion, a Designated Taxi-cab Licence Trader –

- (a) has failed or is failing to comply with these Rules and/or the terms of its Designated Taxi-cab Licence Trader approval; and/or
- (b) has engaged or is engaging in Prohibited Conduct –

the General Manager or the Deputy General Manager may form an intention to take disciplinary action against the Designated Taxi-cab Licence Trader under Rule 5.5.11.

5.5.6 Disciplinary Action

If General Manager or the Deputy General Manager intends to take disciplinary action against a Designated Taxi-cab Licence Trader under Rule 5.5.11 on the basis of a Compliance Officer's report, the General Manager or the Deputy General Manager will provide a copy of the report to the Designated Taxi-cab Licence Trader.

5.5.7 If, in the opinion of the General Manager or the Deputy General Manager, he or she should take disciplinary action as a result of –

- (a) a Designated Taxi Licence Trader contravening:
 - (i) any of the Rules; and/or
 - (ii) any of the terms of its Designated Taxi-cab Licence Trader approval;

- (b) a Designated Taxi Licence Trader engaging in Prohibited Conduct;
the General Manager or the Deputy General Manager shall give that Designated Taxi-cab Licence Trader notice in writing of –
 - (c) the full details of the allegation/s; and
 - (d) the period (being not less than 14 days from the date on which the notice is issued by the General Manager or the Deputy General Manager) within which the Designated Taxi-cab Licence Trader may at its option submit to the General Manager or Deputy General Manager a written submission in response to the allegation/s, attaching a copy of the Compliance Officer's report, if any, in relation to the subject of the allegation/s.
- 5.5.8 Before making a determination in relation to the allegation/s, the General Manager or the Deputy General Manager must –
- (a) consider any written submission provided by or on behalf of the Designated Taxi-cab Licence Trader in response to the allegation/s;
 - (b) request such further information from the Designated Taxi-cab Licence Trader as may be considered relevant to the determination; and
 - (c) otherwise observe the rules of natural justice.
- 5.5.9 For the purposes of Rule 5.5.7, any act or omission by an officer or employee of a Designated Taxi-cab Licence Trader or its Responsible Person is deemed to be an act or omission of the Designated Taxi-cab Licence Trader.
- 5.5.10 A Designated Taxi-cab Licence Trader may authorise any officer, employee or other person to respond to an allegation/s on its behalf.
- 5.5.11 If the General Manager or the Deputy General Manager makes a determination that a Designated Taxi-cab Licence Trader has contravened any of these Rules or any of the terms of its Designated Taxi-cab Licence Trader approval or has engaged in Prohibited Conduct, the General Manager or the Deputy General Manager may –
- (a) censure the Designated Taxi-cab Licence Trader; and/or
 - (b) require the Designated Taxi-cab Licence Trader to give an undertaking in writing in the terms required by General Manager or the Deputy General Manager; and/or
 - (c) require the Designated Taxi-cab Licence Trader to implement or upgrade an education and compliance program in the manner directed by General Manager or the Deputy General Manager, being a manner which is designed to prevent further contraventions by the Designated Taxi-cab Licence Trader; and/or
 - (d) suspend the approval of the Designated Taxi-cab Licence Trader for a period not exceeding three (3) months; or
 - (e) terminate the approval of the Designated Taxi-cab Licence Trader.
- 5.5.12 If the General Manager or the Deputy General Manager makes a determination against a Designated Taxi-cab Licence Trader, the General Manager or the Deputy General Manager must notify the Designated Taxi-cab Licence Trader in writing of that determination, the reasons for the determination and any disciplinary action imposed under Rule 5.5.11.
- 5.6 Summary Suspension or Termination of the approval of a Designated Taxi-cab Licence Trader**
- 5.6.1 If the conduct of a Designated Taxi-cab Licence Trader is such that, in the reasonable opinion of the General Manager or the Deputy General Manager, it is desirable to do so in order to protect the interests of the VTD Taxi Market or the public, the General Manager or the Deputy General Manager may, by notice given to the Designated Taxi-cab Licence Trader, suspend or terminate a Designated Taxi-cab Licence Trader approval without first complying with the disciplinary procedures laid down in Rules 5.5.6 to 5.5.10.

- 5.6.2 If pursuant to his or her power under Rule 5.6.1, the General Manager or the Deputy General Manager suspends the approval of a Designated Taxi-cab Licence Trader, the period of suspension will not exceed three (3) months during which time the provisions under 5.5.6 to 5.5.10 will be applied.

5.7 Register of Determinations

Subject to Rule 8.1.4, if a determination is made against a Designated Taxi-cab Licence Trader, the General Manager or the Deputy General Manager will ensure that details of the determination are recorded in a register and will make the register available for inspection by any person at the VTD Customer Service Centre during the business hours for that Centre, and via the VTD Website. The details recorded in the register will include –

- (a) the name of the Designated Taxi-cab Licence Trader;
- (b) summary details of –
 - (i) the allegation/s against the Designated Taxi-cab Licence Trader;
 - (ii) the determination; and
 - (iii) details of any disciplinary action taken under Rule 5.5.11.

6. SUSPENSION AND TERMINATION OF A DESIGNATED TAXI-CAB LICENCE TRADER APPROVAL

6.1 Automatic Suspension of a Designated Taxi-cab Licence Approval

- 6.1.1 The approval of a Designated Taxi-cab Licence Trader to trade in designated taxi-cab licences is automatically suspended if –

- (a) there is no person acting as a Responsible Person in respect of the business of the Designated Taxi-cab Trader for a period exceeding seven business days; or
- (b) an application order or resolution is proposed for the winding up of the Designated Taxi-cab Licence Trader; or
- (c) steps are taken to appoint a receiver in respect of the Designated Taxi-cab Licence Trader for the whole or any part of its property.

- 6.1.2 In the event of any of the circumstances described in Rule 6.1.1 occurring, the approved Designated Taxi-cab Licence Trader must immediately notify the VTD of those circumstances.

- 6.1.3 Upon notification by a Designated Taxi-cab Licence Trader as required under Rule 6.1.2, the General Manager or the Deputy General Manager will confirm the Designated Taxi-cab Licence Trader approval suspension by notice in writing and make the appropriate changes/ notification to the VTD website listing of Designated Taxi-cab Licence Trader approvals.

6.2 Suspension of a Designated Taxi-cab Licence Trader Approval by the General Manager or Deputy General Manager

The General Manager or the Deputy General Manager may suspend a Designated Taxi-cab Licence Trader approval –

- (a) in accordance with Rule 5.5.11;
- (b) in accordance with Rule 5.6.1;
- (c) during the 28 day notice period referred to in Rule 6.5.3 and such further time as is necessary for General Manager or the Deputy General Manager to determine whether the Designated Taxi-cab Licence Trader has shown cause why its Designated Taxi-cab Licence Trader approval should not be cancelled.

6.3 Period of Suspension

- 6.3.1 A Designated Taxi-cab Licence Trader approval is suspended for the period –

- (a) in the case of suspension pursuant to Rule 6.1.1(a), during which there is no Responsible Person;

- (b) in the case of suspension pursuant to Rule 6.1.1(b), until either –
 - (i) the proposed application order or resolution is cancelled or withdrawn; or
 - (ii) the Designated Taxi-cab Licence Trader approval is terminated in accordance with Rule 6.5.5;
- (c) in the case of suspension pursuant to Rule 6.1.1(c), until either –
 - (i) the steps taken to appoint a receiver are cancelled or withdrawn; or
 - (ii) the Designated Taxi-cab Licence Trader approval is terminated in accordance with Rule 6.5.5;
- (d) in the case of suspension pursuant to Rule 6.2, specified by the General Manager or the Deputy General Manager as the period of the suspension.

6.4 **Effect of Suspension**

- 6.4.1 During a period of suspension of a Designated Taxi-cab Licence Trader approval, the Designated Taxi-cab Licence Trader and any Responsible Person of the Designated Taxi-cab Licence Trader –
- (a) must not trade in designated taxi-cab licences; and
 - (b) must not enter into any new transaction to act on behalf of a prospective transferor, transferee, assignor or assignee of a Taxi-cab licence; but
 - (c) may, with the prior written consent of a VTD Officer authorised to give such consent, complete any transaction entered into prior to the commencement of the suspension period.
- 6.4.2 If the consent referred to in Rule 6.4.1.(c) is withheld, Rule 6.5.7(a)(iii) and (iv) will apply in respect of those transactions.

6.5 **Termination of Designated Taxi-cab Licence Trader Approval**

- 6.5.1 A Designated Taxi-cab Licence Trader may surrender its Designated Taxi-cab Licence Trader approval by giving one month's notice in writing to the VTD, but must complete/settle any affairs relating to uncompleted transactions prior to the surrender taking effect.
- 6.5.2 The General Manager or the Deputy General Manager may terminate a Designated Taxi-cab Licence Trader approval in accordance with Rules 5.5.11, 5.6.1, 6.5.3 or 6.5.6.
- 6.5.3 On the happening of any one or more of the following events, the General Manager or the Deputy General Manager may give notice in writing to the Designated Taxi-cab Licence Trader concerned that, if the Designated Taxi-cab Licence Trader, within 28 days of the date on which the notice is deemed to have been given under Rule 1.6.2, fails to show cause to the reasonable satisfaction of the General Manager or the Deputy General Manager as to why its Designated Taxi-cab Licence Trader approval should not be terminated, that approval will be terminated –
- (a) the General Manager or the Deputy General Manager is satisfied that –
 - (i) in the case of a corporate Designated Taxi-cab Licence Trader – an officer or shareholder of the applicant; or
 - (ii) in the case of a Designated Taxi-cab Licence Trader who is a natural person – the applicant;
made a wilful omission or misstatement about a material point in or in connection with his/her or its application for a Designated Taxi-cab Licence Trader approval or application for approval of the appointment of a Responsible Person;
 - (b) the Designated Taxi-cab Licence Trader ceases to satisfy the eligibility requirements to hold Designated Taxi-cab Licence Trader approval;
 - (c) the Designated Taxi-cab Licence Trader ceases to carry on business or stops or suspends payment of its debts, or states an intention to do so;

- (d) any judgement is entered against the Designated Taxi-cab Licence Trader, and that judgement is not satisfied promptly;
 - (e) the Designated Taxi-cab Licence Trader is in the reasonable opinion of the General Manager or the Deputy General Manager, unable to pay its debts as and when they fall due;
 - (f) ASIC is directed to arrange for an investigation into the affairs, or into particular affairs, of the Designated Taxi-cab Licence Trader pursuant to the **Australian Securities and Investments Commission Act 2001**;
 - (g) a lender or other encumbrancer seizes or enters into possession of the whole or a material part of the property of the Designated Taxi-cab Licence Trader.
- 6.5.4 A notice under rule 6.5.3 must set out the reasons for the proposed termination.
- 6.5.5 If the Designated Taxi-cab Licence Trader fails to show cause in accordance with rule 6.5.3, as to why its Designated Taxi-cab Licence Trader approval should not be terminated, the General Manager or Deputy General Manager may, by notice in writing given to the applicant, terminate that approval from the date specified in the notice and confirm the reasons for that termination.
- 6.5.6 A Designated Taxi-cab Licence Trader approval shall be immediately terminated on the happening of any one of the following events without the necessity for any notice:
- (a) if a Designated Taxi-cab Licence Trader is a natural person, upon the Designated Taxi-cab Licence Trader becoming a person whose person or estate is liable to be dealt with in anyway under a law relating to mental health; or
 - (b) if a Designated Taxi-cab Licence Trader is a corporation –
 - (i) it proposes to enter into any scheme or arrangement or composition for the benefit of its lenders;
 - (ii) an order or resolution is made for the winding up of the Designated Taxi-cab Licence Trader;
 - (iii) a receiver is appointed in respect of the Designated Taxi-cab Licence Trader for the whole or any part of its property;
 - (iv) it fails to comply with or sets aside a statutory demand under the Corporations Act; or
 - (v) it becomes insolvent or steps are taken to render the Designated Taxi-cab Licence Trader insolvent.
- 6.5.7 A Designated Taxi-cab Licence Trader approval is terminated with effect from –
- (a) in the case of surrender pursuant to Rule 6.5.1 the expiry date of the required notice period;
 - (b) in the case of a termination pursuant to Rule 5.5.11, 5.6.1 or 6.5.3, on the date specified by the General Manager or the Deputy General Manager as the termination date; or
 - (c) in the case of a termination pursuant to Rule 6.5.6, on the date of the occurrence of the relevant event.
- 6.5.8 From the date of effect of the termination of a Designated Taxi-cab Licence Trader approval, a Designated Taxi-cab Licence Trader –
- (a) must immediately –
 - (i) return its Designated Taxi-cab Licence Trader Certificate to the VTD;
 - (ii) cease to hold itself out in anyway as being a Designated Taxi-cab Licence Trader or as holding a Designated Taxi-cab Licence Trader approval;
 - (iii) return to the appropriate parties to a transaction all trust moneys; and
 - (iv) return to the appropriate parties to a transaction all documentation relating to transactions in which the Designated Taxi-cab Licence Trader is involved at the date of termination but which transactions have not been completed;

- (b) must not –
 - (i) enter into any new transaction to act on behalf of a prospective transferor, transferee, assignor or assignee of a designated taxi-cab licence; or
 - (ii) accept any moneys from any person in relation to an existing or new designated taxi-cab licence transaction; and
- (c) ceases to be bound by the Rules except in respect of rights or obligations that accrued prior to the date of termination.

7. DISPUTES AND COMPLAINTS

- 7.1 A Designated Taxi-cab Licence Trader must operate a complaints management system that is consistent with Australian Standard AS 10002, including procedures for complaint resolution and referrals to other parties.
- 7.2 A Designated Taxi-cab Licence Trader must –
- (a) make its register of complaints available on demand for the purpose of inspecting or auditing those records if requested by the General Manager, the Deputy General Manager or a VTD Officer authorised to make the request;
 - (b) provide the General Manager, the Deputy General Manager or a VTD Officer with all reasonable assistance in the carrying out of that inspection or audit; and
 - (c) if asked by the General Manager, the Deputy General Manager or a VTD Officer authorised to make the request, give that person an accurate copy of any part or all of the records contained within its register of complaints.

8. APPLICATIONS FOR REVIEW

8.1 Right to Apply for Review

- 8.1.1 An applicant for Designated Taxi-cab Licence Trader approval or a Designated Taxi-cab Licence Trader may apply to the Review Committee for review of any –
- (a) decision made by the General Manager, the Deputy General Manager or a VTD Officer with respect to that applicant or Designated Taxi-cab Licence Trader; and/or
 - (b) determination made against it or its application.
- 8.1.2 Subject to Rule 8.1.3, an application for review setting out the grounds for review must be lodged by the applicant for Designated Taxi-cab Licence Trader approval or the Designated Taxi-cab Licence Trader with the chairman of the Review Committee within 28 days of –
- (a) in the case of a decision or determination written notice of which is required to be given under these Rules, the date on which that written notice is deemed to have been given under Rule 1.6.2; or
 - (b) in any other case, the date of the decision or determination.
- 8.1.3 The Chairman of the Review Committee may, in any case, extend for a specified further period, the period within which an application for review must be lodged under Rule 8.1.2 if the Chairman is of the opinion that, in the special circumstances of the case, the extension is necessary to avoid injustice to the applicant.
- 8.1.4 The General Manager or the Deputy General Manager must ensure that a record is not made in the register and that any announcement is not made in relation to a determination, or that any disciplinary action imposed upon a Designated Taxi-cab Licence Trader is taken, until the expiry of the time allowed for an application under Rule 8.1.2 or 8.1.3 or, where an application for review is lodged, until the Review Committee has made its decision on the review. After the making of a decision of the Review Committee which is adverse to the VTD Taxi Licence Trader, the decision is permitted to be recorded in the register.

8.2 Review Committee

- 8.2.1 The Director will establish a Review Committee.
- 8.2.2 The function of the Review Committee is to hear and determine any matters referred to it under these Rules.
- 8.2.3 The chairman of the Review Committee will be appointed by Director for a period determined by Director.
- 8.2.4 For the purposes of conducting any hearing, the Review Committee shall comprise not less than 3 members.
- 8.2.5 Subject to Rule 8.2.6, the members of a Review Committee will be the chairman and not less than 2 persons selected by the chairman.
- 8.2.6 Where the chairman is unwilling or unable to act in relation to a particular hearing or function, the chairman will appoint a person to act as chairman for that hearing or function.

8.3 Proceedings of the Review Committee

- 8.3.1 Except as otherwise provided in these Rules, the Review Committee will regulate its own proceedings.
- 8.3.2 Subject to rule 8.3.3 any hearing conducted by the Review Committee will take place in private.
- 8.3.3 The Review Committee will permit any Designated Taxi-cab Licence Trader that is the subject of any hearing conducted by the Review Committee to –
- (a) appear in person;
 - (b) be represented by an employee, any other person approved by the Review Committee or a barrister or solicitor of the Supreme Court of a State or Territory of Australia or of the High Court of Australia;
 - (c) make submissions to the Review Committee.
- 8.3.4 If a Designated Taxi-cab Licence Trader that is the subject of any hearing does not wish to appear in person, or be represented by any of the persons referred to in rule 8.3.3, before the Review Committee, the Designated Taxi-cab Licence Trader may, not less than 10 days before the date of the hearing, lodge with the Review Committee a written submission and the Review Committee shall be required to consider that written submission in making its determination.
- 8.3.5 A hearing conducted by the Review Committee will be conducted with as little formality and technicality, and with as much expedition, as a proper consideration of the matters before the Review Committee permits. If the Review Committee makes a written transcript of any hearing it will provide a copy to any Designated Taxi-cab Licence Trader that is the subject of that hearing.
- 8.3.6 The Review Committee will determine any matter brought before it without bias, give all parties a fair hearing and otherwise observe the rules of natural justice.
- 8.3.7 The Review Committee may obtain such legal advice as it thinks appropriate in the circumstances and may have its legal advisers present at any hearings for the purpose of providing that advice.
- 8.3.8 Any decision of the Review Committee will be determined according to a majority of votes of its members. Each member will have one vote. In the event of an equality of votes, the chairman will have a casting vote.
- 8.3.9 Within 7 days of making a decision the Review Committee will give to General Manager or the Deputy General Manager, and to the Designated Taxi-cab Licence Trader that is the subject of the proceedings, the reasons in writing for its decision.

8.3.10 In the case of an application for review of a decision by the General Manager, the Deputy General Manager or a VTD Officer, the following provisions shall apply –

- (a) within 28 days of receiving a notice of appeal, the Review Committee will –
 - (i) appoint a date, time and place for the appeal hearing; and
 - (ii) cause notice in writing of the date, time and place to be given to the applicant;
- (b) the date appointed for a hearing will be not more than 60 days and not less than 21 days after the date of the notice to the applicant;
- (c) the Review Committee may adjourn and reconvene the proceedings as it thinks fit;
- (d) the proceedings will not be conducted as a rehearing, but the Review Committee may review any findings reached in the decision under review;
- (e) the Review Committee may affirm, vary or set aside the reviewed decision, any penalty imposed and any direction made.

8.4 VTD Shall Provide Information

8.4.1 The General Manager or the Deputy General Manager shall ensure any information in the possession of the VTD relating to any act, omission or conduct in respect of which a Designated Taxi-cab Licence Trader has been made the subject of disciplinary action under Rule 5.5.11, 5.6.1, 6.5.3 or 6.5.6 is provided to the Review Committee

8.4.2 Without limiting the generality of Rule 8.4.1, information which may be communicated includes any information which may reasonably be considered relevant to any investigation, or proposed investigation conducted in accordance with these Rules.

8.4.3 Where information is provided pursuant to Rule 8.4.1, the Designated Taxi-cab Licence Trader to whom the information relates shall be –

- (a) informed by Review Committee of:
 - (i) the provision of that information; and
 - (ii) the information; and
- (b) given a reasonable opportunity to make submissions to the Review Committee in respect of that information.

9. CONDUCT OF DEALINGS

9.1 Provision of dealing related information

9.1.1 For the purposes of regulation 9 of the Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005, the following dealing related information in respect of each market dealing and directly negotiated dealing (within the meaning of those Regulations) must be submitted with, or contained within, the application for authority to transfer the designated taxi-cab licence that is the subject of the dealing or to assign the right to operate a vehicle under the designated taxi-cab licence that is the subject of the dealing (as the case requires) –

- (a) the number of the designated taxi-cab licence that is subject to the dealing;
- (b) the area within which a vehicle may be operated under the designated taxi-cab licence;
- (c) if the agreement for the transfer of the designated taxi-cab licence or the assignment of the right to operate a vehicle under the designated taxi-cab licence includes a condition affecting the type of service to be provided under the licence or the vehicle which may be operated under the licence, information that describes the nature and effect of the condition; and
- (d) if the dealing is for the transfer of the designated taxi-cab licence, the final agreed consideration for that transfer expressed as a total monetary amount; or

- (e) if the dealing is for the assignment of the right to operate a vehicle under the designated taxi-cab licence, the final agreed consideration for the assignment of that right expressed as a monthly assignment fee.

9.2 Taxi-cab Licence Transfer and Assignment Agreements

9.2.1 Appendix 1 and Appendix 2 to these Rules set out forms of Agreement for the transfer or assignment of a taxi-cab licence. These are marked respectively as 'Transfer of Taxi-cab Licence Agreement' and 'Assignment of Taxi-cab Licence Agreement'. These are endorsed by the VTD and use of these Agreements is preferred by the VTD in conjunction with any transfer or assignment of a taxi-cab licence.

9.2.2 The signatory or signatories to a taxi-cab licence transfer agreement or a taxi-cab licence assignment agreement (as the case requires) must be –

- (a) if the party to the agreement is a natural person, that natural person;
- (b) if the party to the agreement is constituted by the members of a partnership –
 - (i) if the partnership agreement is written and authorises a partner or partners to sign, that partner or those partners; or
 - (ii) if there is no written partnership agreement, or the written partnership agreement does not authorise a partner or partners to sign, all partners;
- (c) if the party to the agreement is a company which is not a proprietary company that has a sole director, two directors of the company, or a director and the secretary of the company;
- (d) if the party to the agreement is a proprietary company that has a sole director, that sole director of the company;
- (e) if the party to the agreement is a co-operative, two directors of the co-operative, or one director and one officer of the co-operative;
- (f) if the party to the agreement is an incorporated association, two members of the committee of management, or a person or persons otherwise authorised by the rules of association to sign;
- (g) if the party to the agreement is a body corporate (other than a company, co-operative or incorporated association), the person or persons authorised to sign by the constitution or other instrument governing the exercise of the powers of the body corporate.

10. PROCEDURES

10.1 Client Engagement

10.1.1 A Designated Taxi-cab Licence Trader must not trade in designated taxi-cab licences on behalf of a client without a written and signed authorisation from that client granting the Designated Taxi-Cab Licence Trader authority to act as an agent (refer 'Designated Taxi-Cab Licence Trader Authority to Act' – Appendix 3 to these Rules). This Designated Taxi-Cab Licence Trader Authority to Act is endorsed by the VTD and use of this authority to act is preferred by the VTD in conjunction with any transfer or assignment of a taxi-cab licence.

10.1.2 The Authority to Act must include in its Schedule –

- (a) the type of dealing for which the client has engaged the Designated Taxi-Cab Licence Trader;
- (b) the number of the taxi licence to which the dealing relates;
- (c) all fees and charges payable to the Designated Taxi-Cab Licence Trader;
- (d) full details of all instructions given by the client to the Designated Taxi-Cab Licence Trader.

- 10.1.3 The Designated Taxi-cab Licence Trader must request from the client –
- (a) proof of identity that satisfies the 100 point check required by the Australian Transaction Reports and Analysis Centre (AUSTRAC) under the **Financial Transactions Reports Act 1998** of the Commonwealth (refer Client Identification Checklist – Appendix 4 to these Rules);
 - (b) the client’s certificate of taxi-cab industry accreditation as a taxi-cab licence holder or taxi-cab operator, as relevant to the dealing;
 - (c) where the client is a current licence holder, a taxi-cab licence certificate verifying the client’s licence holding, as relevant to the dealing.
- 10.1.4 The Designated Taxi-cab Licence Trader must declare in relevant Authority to Act documentation that the Designated Taxi-cab Licence Trader is satisfied that the client has demonstrated proof of identity and has confirmed the client holds taxi-cab industry accreditation as a taxi-cab licence holder or taxi-cab licence operator, as relevant to the dealing.
- 10.1.5 Three copies of the Authority to Act are required – one to be retained by the client, one to be retained by the Designated Taxi-cab Licence Trader and one to be submitted to the VTD with the application material.
- 10.2 Submission of Applications**
- 10.2.1 On lodging an application for authority to transfer or assign a designated taxi-cab licence with the VTD, the following items must be submitted –
- (a) the prescribed VTD application fee applicable at the time;
 - (b) a completed VTD application form, including Designated Taxi-cab Licence Trader identification number if applicable, signed by all parties to the dealing;
 - (c) a completed taxi-cab licence transfer agreement or taxi-cab licence assignment agreement (as appropriate) signed by all parties to the dealing (refer Appendix 1 and Appendix 2 to these Rules for VTD endorsed Agreements);
 - (d) If applicable a Designated Taxi Licence Trader Authority to Act, signed by each party to the dealing who has had a Designated Taxi-cab Licence Trader act on their behalf in relation to the dealing, and that Designated Taxi-cab Licence Trader;
 - (e) a letter of acceptance from the NSP with which the vehicle to be operated under the licence is proposed to be affiliated.
- 10.2.2 Applications for authority to transfer or assign a designated taxi-cab licence must be submitted to the VTD promptly once all documentation has been completed.
- 10.2.3 The schedule to the taxi-cab licence transfer agreement or taxi-cab licence assignment agreement must declare all monies payable –
- (a) between the parties to the dealing;
 - (b) between any party to the dealing and any Designated Taxi-cab Licence Trader;
 - (c) between any party to the dealing or Designated Taxi-cab Licence Trader and any other party in relation to the dealing.
- 10.2.4 Applications must be complete prior to submission to the VTD and may be submitted to VTD by mail, or in person at the VTD Customer Service Centre during the business hours for that centre (see VTD website for details). Incomplete applications will not be accepted and will be returned to the applicant or the relevant Designated Taxi-cab Licence Trader (if applicable).
- 10.3 Assessment and Approval of Applications**
- 10.3.1 All applications for authority to transfer or assign taxi-cab licences are subject to the approval of the VTD. Subject to rule 10.3.2, successful applications for licence assignments may be finalised immediately after approval. If a transfer of a taxi-cab licence is authorised

by the VTD, the VTD will notify in writing the Designated Taxi-cab Licence Trader and both parties to the dealing. In either case (transfer or assignment) the VTD authorisation may be conditional, for example a transfer authorisation may be subject to confirmation of the release of a financial institution's interest in the licence and/or may request further information required to finalise the approval.

10.3.2 Following VTD authorisation and to complete the transfer process, the Designated Taxi-cab Licence Trader must submit to the VTD –

- (a) a declaration of settlement, signed by both parties to the dealing and any Designated Taxi-cab Licence Trader acting on behalf of either party;
- (b) any additional documentation requested in the VTD approval letter including but not limited to a letter from a financial institution releasing any interest or encumbrance held over a licence.

10.3.3 Where a licence transfer or licence assignment results in a change of operator of the vehicle to be operated under that licence, the licence transfer or licence assignment will not be finalised until the VTD has confirmation that the vehicle is registered in the name of the new operator.

Note: A VTD Authority to Register must be obtained prior to VicRoads registering or transferring a vehicle as a taxi-cab.

10.3.4 Upon finalisation of a successful application, amended copies of the licence will be issued to the new licence holder and/or assignee.

10.4 Settlement

10.4.1 The declaration of settlement, submitted to the VTD in accordance with rule 10.3.2 must declare that all monies listed in the schedule to the licence transfer agreement have been received, and must be signed by both parties to the dealing and any Designated Taxi-cab Licence Trader acting on behalf of either party.

10.5 Trust Account

10.5.1 A Designated Taxi-cab Licence Trader must deposit all funds received from a client into the trust account required to be operated by the Designated Taxi-cab Licence Trader under Rule 4.4. For example, any deposit taken by the Designated Taxi-cab Licence Trader as part of a taxi-cab licence transfer purchase price would be deposited in the trust account.

10.5.2 The only funds to be deposited into the trust account are client funds entrusted to a Designated Taxi-cab Licence Trader in the conduct of business according to instructions given to the Designated Taxi-cab Licence Trader by the client in the relevant Authority to Act.

10.5.3 Funds associated with a transaction must be paid into the trust account by the Business Day immediately following the date of receipt. Trust moneys must remain in the trust account until paid to the person entitled to receive the payment or to the appointed representative of that person or as directed by the client.

10.5.4 On receipt of funds, a Designated Taxi-cab Licence Trader must issue a receipt in duplicate, providing the client with the original and retaining the clearly marked 'Duplicate' copy of the receipt for its records.

10.5.5 All trust fund receipts must show the –

- (a) date the money was received;
- (b) approved Designated Taxi-cab Licence Trader trading name;
- (c) address of office where receipts are kept;
- (d) signature of the person who issued the receipt;
- (e) name of the entity paying the money;
- (f) name of the person on behalf of whom the money is received;

- (g) amount and form of the money received (cheque/cash/electronic funds transfer);
 - (h) a description of the transaction eg. transfer of licence MTXXXX.
- 10.5.6 Trust funds are only to be withdrawn, or paid, in the form of a trust account cheque or by electronic funds transfer or in such other form as approved by the Director, Consumer Affairs Victoria. All cheques are to be marked 'Not Negotiable' and are not to be made payable to cash.
- 10.5.7 Cheque butts or records of electronic funds transfer payments must display the following information and be retained as part of the Designated Taxi-cab Licence Trader's records –
- (a) date of payment;
 - (b) name of entity to whom payment is made;
 - (c) details of the trust account from which payment is debited;
 - (d) a notation or code indicating the nature of transaction and purpose for which payment is made;
 - (e) the amount of the payment.

10.6 **Financial Reporting**

- 10.6.1 The Designated Taxi-cab Licence Trader must ensure a financial reporting schedule is prepared detailing –
- (a) the overall financial standing of the Designated Taxi-cab Licence Trader;
 - (b) the trust account, including client name and corresponding amounts for all amounts currently held, and all amounts previously held during that reporting period.
- 10.6.2 The schedule specified in Rule 10.6.1 must be submitted for each period of six months and must be received by the VTD not later than 10 business days after 30 June and not later than 10 business days after 31 December each year (refer VTD endorsed Financial Reporting Balance Sheet and Trust Account Audit Sheet – Appendix 5 to these Rules).

11. **VTD MAY DISCLOSE INFORMATION**

- 11.1 The VTD may, as appropriate, disclose or refer information received in connection with the transfer or assignment of a taxi-cab licence to another Government agency if necessary to enforce, or help another law-enforcement agency enforce, a law or if it is necessary to do so for the VTD to fulfil its obligations to another law enforcement agency.

Appendix 1

Transfer of Taxi-cab Licence Agreement

DATED

BETWEEN

[Insert name and, if applicable, ABN] of ('Transferor') [insert address]

AND

[Insert name and, if applicable, ABN] of ('Transferee') [insert address]

IT IS AGREED:

1. TRANSFER OF LICENCE

On and subject to the terms of this agreement, the transferor agrees to transfer to the transferee the taxi-cab licence ('Licence') and to sell to the transferee the chattels, if any ('Chattels') each as specified in Item 3 of the schedule and the transferee agrees to take a transfer of the Licence and to buy any Chattels in each case on and with effect from the date specified in Item 2 of the schedule ('settlement date').

2. PURCHASE PRICE

2.1 The consideration for the transfer of the Licence and the sale of any Chattels will be the purchase price specified in Item 5 of the Schedule ('Purchase Price') which must be paid by the Transferee in the manner and at the times specified in Item 5 of the Schedule.

2.2 If Item 5 of the Schedule provides for payment of a deposit it must be paid to the Transferor's Agent specified in Item 1 of the Schedule. The Transferor's Agent will hold the deposit as stakeholder as security for the performance of the Transferee's obligations under this Agreement. The parties irrevocably instruct the Transferor's Agent to pay the deposit as follows:

- (a) if the Transferee pays the balance of the Purchase Price to the Transferor at settlement then to the Transferor;
- (b) if settlement does not occur on the Settlement Date or this Agreement is terminated, in either case because approval by the Licensing Authority is not given under clause 3, then to the Transferee;
- (c) if settlement does not occur on the Settlement Date solely because the Transferor breaches this Agreement then to the Transferee;
- (d) if settlement does not occur on the Settlement Date because the Transferee breaches this Agreement then to the Transferor.

2.3 If the transferor does not have an agent, the transferor:

- (a) must hold the deposit (if any) specified in Item 5 of the schedule solely as security for the performance of the transferee's obligations under this agreement until the transferee pays the balance of the purchase price to the transferor at settlement;
- (b) must, if settlement does not occur on the settlement date or this agreement is terminated, in either case because approval by the Licensing Authority is not given under clause 3, return the deposit to the transferee;
- (c) must, if settlement does not occur on the settlement date solely because the transferor breaches this agreement, return the deposit to the transferee;
- (d) may, if settlement does not occur on the settlement date because the transferee breaches this agreement, retain the deposit.

2.4 The fact that the Transferor may become entitled to receive the deposit does not prevent it from exercising any other right it has in connection with a breach of this Agreement by the Transferee.

3. LICENSING AUTHORITY APPROVAL

- 3.1 This Agreement is conditional upon the Transferor obtaining, on or before the date specified in Item 6 of the Schedule ('Approval Date'), the authority of the Licensing Authority within the meaning of Division 5 of Part VI of the **Transport (Compliance and Miscellaneous) Act 1983** ('Licensing Authority') to transfer the Licence from the Transferor to the Transferee ('Approval').
- 3.2 The Transferor and Transferee must, within fourteen calendar days after the date of execution of this Agreement, submit all documents and other items (if any) required by the Licensing Authority to determine the application for authority to transfer the Licence.
- 3.3 If the Approval is not obtained by the Approval Date or such other date as may be agreed in writing by the parties, either party may terminate this Agreement by giving written notice to the other.
- 3.4 If this Agreement is terminated under clause 3.3, the Transferee will be entitled to a refund of any deposit and other moneys paid to the Transferor provided that the Transferee:
- (a) has complied with its obligation under clause 3.2;
 - (b) has done everything reasonably required to obtain the Approval; and
 - (c) is not in default under any other condition of this Agreement when the notice is given.

4. SETTLEMENT

On the settlement date, upon payment of the purchase price (less the amount of any deposit previously paid to the transferor's agent), the transferor must deliver into the possession of the transferee the items specified in Item 7 of the schedule ('settlement items').

5. TRANSFEROR'S WARRANTIES

- 5.1 The transferor represents and warrants to the transferee that, as at the date of this agreement and at settlement:
- (a) the transferor is the legal and beneficial holder of the Licence and is the legal and beneficial owner of any Chattels; and
 - (b) the transferor will at settlement transfer the Licence to the Transferee and deliver to the transferee good title to any Chattels, in each case free from any mortgage, charge, lien, trust or any other encumbrance.

6. TRANSFEREE'S ACKNOWLEDGMENTS

- 6.1 The transferee acknowledges and agrees that the Licence is subject to the conditions set out on and/or attached to the Licence and in particular that:
- (a) if the Licence is a Conventional Fixed-Term Taxi-Cab Licence issued under the 2010 Greater Metropolitan Taxi-cab Licence Release program, the Licence is for a fixed term of 10 years from the date of licence issue, is non-renewable and non-assignable, and expires on the expiry date set out in Item 3 of the Schedule; or
 - (b) if the Licence is a Wheel-chair Accessible Fixed-Term Taxi-Cab Licence issued under the 2010 Greater Metropolitan Taxi-cab Licence Release program, the Licence is for a fixed term of 10 years from the date of licence issue, is non-renewable and non-assignable, and expires on the expiry date set out in Item 3 of the Schedule. The Transferee will be responsible for paying when due all annual instalments of the licence fee payable to the Director of Public Transport on and after the Settlement Date. For the avoidance of doubt, the dates on which the annual instalments are due are set out in Item 3 of the Schedule.

7. COSTS

- 7.1 The Transferor must pay all costs associated with obtaining a Licensed Taxi Tester certificate of roadworthiness in respect of any vehicle forming part of the Chattels ('Vehicle').

- 7.2 Any fee payable to the Licensing Authority in respect of the transfer of the Licence must be borne by the Transferor.
- 7.3 Any fee, levy, charge or duty payable in respect of the transfer of registration of any Vehicle included in this agreement as Chattels as specified in Item 3 of the Schedule must be borne by the Transferee.
- 7.4 Except as provided in 7.2 or 7.3 above, each party must pay its own costs and outlays connected with the negotiation, preparation and execution of this Agreement including legal fees, fees and charges payable to any financial institution and any VTD application fees payable.

8. GST

- 8.1 In this clause 'GST Act' means the **A New Tax System (Goods and Services Tax) Act 1999** of the Commonwealth (as amended); and Expressions used in this clause have the meanings ascribed to them by the GST Act.
- 8.2 Subject to other provisions of this clause, GST is not to be added to the Purchase Price.
- 8.3 If Item 4 of the Schedule says that the sale of the Licence and any Chattels is the supply of a going concern:
- (a) the parties agree the supply of the Licence and any Chattels is a supply of a going concern under which the Transferor is supplying to the Transferee all of the things that are necessary for the continued operation of an enterprise;
 - (b) the Transferor must, between the date of this Agreement and the Settlement Date carry on the enterprise in relation to the Licence and any Chattels in a proper and business-like way; and
 - (c) the Transferee warrants that on the date of the Supply it will be registered or required to be registered under the GST Act.
- 8.4 If the Agreement says that this sale and transfer is not a Taxable Supply, the Transferee agrees that the Licence and any Chattels will not be used and the Transferee does not intend for them to be used in a way that could make the sale a Taxable Supply.
- 8.5 If the Supply made under this Agreement does not satisfy the requirements of section 38–325 of the GST Act then:
- (a) The Transferee will be required to pay to the Transferor an additional amount equal to the GST payable on the taxable supply and any penalties or interest that may be imposed in respect of the GST payable; and
 - (b) the additional amount is payable immediately after the Transferor provides a valid Tax Invoice to the Recipient in respect of the Supply.
- 8.6 If this Agreement says that this sale and transfer is a Taxable Supply the Transferee must, on the Settlement Date, pay the Transferor an additional amount equal to the GST payable on or for the Taxable Supply, subject to the Transferee receiving a valid Tax Invoice in respect of the Supply at or before the time of payment.

9. DEFAULT INTEREST

If a party fails to pay any amount payable under this agreement that party must pay interest on any money overdue during the period of default at the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983** as at the date of the default. Interest accrues from day to day from and including the due date for payment up to the actual date of payment and is payable on demand.

10. SPECIAL CONDITIONS

This agreement is subject to the special conditions, if any, set out in Item 8 ('special conditions'). If there is any inconsistency between the special conditions and any other term of this agreement, the special conditions prevail to the extent of the inconsistency.

11. DECLARATION

By signing this agreement the Transferor and Transferee declare that this Agreement constitutes the entire agreement including all payments made or due in connection with the transfer of the taxi-cab licence and any chattels (includes motor vehicle and / or taxi equipment) or other items or services associated with any agreement related to the transfer of the taxi-cab licence. Any payments associated with the transfer of the taxi-cab licence not otherwise listed in the Schedule are disclosed in Item 9 ('additional payments') of the Schedule.

EXECUTED AS AN AGREEMENT

EXECUTED by **TRANSFEROR** in
the presence of:)
)
)
)

.....
Witness signature

.....
Name (please print)

.....

.....
Name (please print)

or

EXECUTED by **TRANSFEROR** in
accordance with section 127(1) of the
Corporations Act 2001:)
)
)
)

.....
Director/Sole Director & Secretary

.....
Name (please print)

.....
Director/Secretary

.....
Name (please print)

EXECUTED by **TRANSFeree** in
the presence of:)
)
)

.....
Witness signature

.....
Name (please print)

.....

.....
Name (please print)

or

EXECUTED by **TRANSFeree** in
accordance with section 127(1) of the
Corporations Act 2001:)
)
)
)

.....
Director/Sole Director & Secretary

.....
Name (please print)

.....
Director/Secretary

.....
Name (please print)

SCHEDULE

<p>Item 1</p> <p>Agent (if any) acting for the Licence Holder:</p> <p>[Designated Taxi-cab Licence Trader if acting for the holder of a metropolitan taxi-cab licence]</p>	<p>[Name].....</p> <p>Designated Taxi-cab Licence Trader approval number [if applicable]</p> <p>Australian Business Number [if applicable] [ABN].....</p> <p>of</p> <p>[address].....</p> <p>Tel: Fax: Mob:</p>	
<p>Item 2</p> <p>Settlement Date:</p>	<p>The date 14 days after Approval is given by the Licensing Authority for the transfer, or such other date as is agreed between the parties</p>	
<p>Item 3</p> <p>Licence:</p> <p>Chattels*:</p> <p>Vehicle:</p> <p>Taximeter:</p> <p>Taxi Safety Camera:</p> <p>Other items: (specify)</p>	<p>Details</p> <p>Taxi-cab Licence Number</p> <p>.....</p> <p>(a copy of the Taxi-cab Licence is attached to this Agreement)</p> <p>*If the Licence is a Conventional Fixed-Term Taxi-Cab Licence or a Wheel-chair Accessible Fixed-Term Taxi-Cab Licence issued under the 2010 Greater Metropolitan Taxi-cab Licence Release program, the expiry date is:</p> <p>*If the Licence is a Wheel-chair Accessible Fixed-Term Taxi-Cab Licence issued under the 2010 Greater Metropolitan Taxi-cab Licence Release program, the annual taxi-cab licence instalment payments fall due on (day/month) each year.</p> <p>Make:</p> <p>Model:</p> <p>Reg. No or V.I.N No:</p> <p>Amount paid for vehicle:</p> <p>Value of vehicle as declared on VicRoads Application for Transfer of Registration</p> <p>Make/model:</p> <p>Make: Serial No.</p> <p>.....</p> <p>.....</p> <p>Total Purchase Price</p>	<p>Purchase Price</p> <p>\$</p> <p>\$</p> <p>\$</p> <p>\$</p> <p>\$</p> <p>\$</p> <p>\$</p> <p>\$</p> <p>\$</p>
<p>Item 4</p> <p>GST Information</p>	<p>This sale is a taxable supply</p> <p>This sale is the supply of a going concern</p>	<p>No / Yes</p> <p>No / Yes</p>
<p>Item 5</p> <p>Payment of Purchase Price</p>	<p>Deposit of \$..... payable upon signing this Agreement, by bank cheque made payable to the Transferor's Agent as specified in Item 1 of the Schedule or to the transferor if there is no Transferor's Agent.</p> <p>Balance of \$..... payable on Settlement Date, by bank cheque(s) made payable to the Transferor or as otherwise directed by the Transferor in writing not less than two working days prior to the Settlement Date.</p>	

Item 6 Approval Date:	Date if no date specified, the date that is 45 days after the date of this Agreement
Item 7 Settlement Items*:	<ul style="list-style-type: none"> ● possession of the Chattels, if any, free of all encumbrances; ● completed notice of disposition in respect of any Vehicle; ● all documents of title relating to any Chattels, including current registration papers in respect of any Vehicle; ● current Licensed Taxi Tester certificate of roadworthiness in respect of any Vehicle.
Item 8 Special Conditions:	
Item 9 Additional Payments:	<p>* all payments made or due in connection with the transfer of the taxi-cab licence and any chattels (includes motor vehicle and / or taxi equipment) or other items or services associated with any agreement related to the transfer of the taxi-cab licence.</p> <p>* in addition to the amounts itemised above, the following payments have been made or will fall due in connection with the transfer of the taxi-cab licence:</p> <p>(specify chattels/items/services and amount being paid for each)</p>

*delete inapplicable item/s

Appendix 2

Assignment of Taxi-cab Licence Agreement

DATED:

BETWEEN: of

[Insert name and, if applicable, ABN]

..... ('Assignor')

[insert address]

AND: of

[Insert name and, if applicable, ABN]

..... ('Assignee')

[insert address]

Introduction:

- A. The Assignor –
 - (i) is the holder of a taxi-cab licence under Part VI of the **Transport (Compliance and Miscellaneous) Act 1983** ('the Act') being the licence specified in Item 1 of the Schedule ('Licence'); and
 - (ii) is an accredited taxi-cab licence holder under Part VI of the Act.
- B. The Assignor agrees not to operate a vehicle under the Licence and to assign the right to operate a vehicle under the Licence to the Assignee, in each case for the period specified in Item 3 of the Schedule ('Term').
- C. The Assignee is accredited as a taxi-cab operator under Part VI of the Act.
- D. The Assignee accepts the assignment and agrees to operate a vehicle under the Licence in a proper manner on the terms and conditions contained in this Agreement.

Operative Provisions:

- 1. **Assignment**
 For the duration of the Term (but subject to clause 8), the Assignor –
 - (a) must not operate a vehicle under the Licence; and
 - (b) assigns the right to operate a vehicle under the Licence to the Assignee on the terms and conditions set out in this Agreement.
 The Assignee accepts the assignment in accordance with section 150 of the Act and the terms of this Agreement.
- 2. **Licensing Authority Approval**
 - 2.1 This Agreement (other than this clause 2 and clause 11) is conditional upon the Licensing Authority (within the meaning of the Act) ('Licensing Authority') authorising the assignment of the right to operate a vehicle under the Licence on the terms of this Agreement (as is required under section 150 of the Act) and, notwithstanding any other provision of this Agreement, the assignment will not become operative before the date of the authorisation ('Authorisation Date').
 - 2.2 As soon as reasonably practicable after, but no later than 14 days after, the date of this Agreement the Assignor must apply to the Licensing Authority as required by or under the Act for authority to assign the right to operate a vehicle under the Licence to the Assignee. If requested by the Assignor, the Assignee must provide the Assignor with any documents, information or things within the Assignee's possession or control necessary to enable the Assignor to seek that authority.

- 2.3 The parties must use their respective best endeavours and do all things reasonably necessary to procure the satisfaction of the condition in clause 2.1.
- 2.4 If the condition in clause 2.1 is not satisfied on or before the date that is 30 days after the date of this Agreement then this Agreement (other than clause 11) will immediately terminate and, except so far as any claims may have arisen prior to the termination, no party will have any obligation or bear any liability to the other party.
3. **Statutory Conditions**
- 3.1 The assignee must submit the vehicle operated under the Licence (Licensed Vehicle) for inspection when required by the Licensing Authority or an officer or inspector of the Licensing Authority.
- 3.2 The Assignor must –
- (a) at all times during the currency of this Agreement, make all necessary applications to the Licensing Authority for renewal of the Licence, the rights under which are assigned by this Agreement, and shall pay the fees for such renewal and any amount payable by way of seating tax, or annual licence fee;
 - (b) to return to the Licensing Authority for safekeeping the licence and allow all the endorsements required to be made thereon by or under the Act; and
 - (c) to apply to the Licensing Authority as required by or under the Act for authority to assign the rights under the Licence in accordance with clause 2.2 of this Agreement.
- 3.3 The Assignee must –
- (a) comply with all business and service standards applicable to the accreditation of the Assignee as a taxi-cab operator;
 - (b) give the Assignor access to the records of the information specified in paragraphs 1(a), 1(i), 1(j), 1(k), 1(l) and 1(m) of Schedule 1 to the Transport (Taxi-Cab Industry Accreditation) Regulations 2007 (Vic.) that the Assignee is required to keep under regulation 7 of those Regulations.
4. **Consideration**
- 4.1 In consideration of the assignment of the right to operate the Licensed Vehicle under the Licence for the Term, the Assignee must pay to the Assignor the amount(s) specified at Item 4 of the Schedule ('Assignment Fee').
- 4.2 The Assignment Fee is payable in advance at the times and in the manner specified in Item 4 of the Schedule. Where the Assignment Fee is payable in periodic instalments (for example, monthly, quarterly or annually) and the instalment is for part of a period, then that instalment will be reduced pro rata with reference to the proportion which the number of days in that part-period bears to the total number of days in the entire period.
- 4.3 If the Assignee does not pay any amount payable by it under this Agreement on time, it must, upon demand by the Assignor, pay to the Assignor interest upon the unpaid amount at the rate for the time being fixed under section 2 of **Penalty Interest Rates Act 1983** from the relevant time from the date the unpaid amount was due until such time as it is received by the Assignor.
5. **Assignee's General Obligations**
- 5.1 The Assignee irrevocably undertakes, and covenants, and agrees with the Assignor that at all times during the continuance of this Agreement the Assignee must –
- (a) operate the Licensed Vehicle under the Licence in a proper manner in accordance with all relevant laws regulations and rules of any kind, and will take no action nor permit any action to be taken that may jeopardize the holding of the Licence by the Assignor;

- (b) ensure that the Licensed Vehicle meets the standards required by the Licensing Authority for a vehicle being operated as a taxi-cab and satisfies the conditions, if any, attached to the Licence;
- (c) pay all expenses of any kind (except any licence fee and/or other charges or amounts payable to the Licensing Authority) associated with, or arising from, operating the Licensed Vehicle;
- (d) not assign, part with in any way, or otherwise deal with the right to operate the Licensed Vehicle under the Licence; and
- (e) remain accredited under Part VI of the Act as a taxi-cab operator throughout the duration of the Term.

6. **Assignor's Warranties and Covenants**

6.1 The Assignor warrants that at the date of this Agreement –

- (a) the Assignor is the legal and beneficial holder of the Licence;
- (b) the Assignor has, subject to obtaining the authority of the Licensing Authority, the right and power to assign the right to operate a vehicle under the Licence to the Assignee; and
- (c) the Licence is not subject to any other assignment agreement.

7. **Indemnity**

The Assignee is liable for and must indemnify and hold the Assignor harmless against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which the Assignor suffers, pays or is liable for in connection with –

- (a) any act or omission of the Assignee in connection with the Licence by the Assignee or any other person; and
- (b) any breach of, or default under, this Agreement by the Assignee.

8. **Termination**

The Assignor may, in its sole discretion, terminate this Agreement immediately by notice in writing to the Assignee if –

- (a) the Assignee is in breach of any of its obligations or duties under this Agreement and fails to remedy such breach within seven days of receiving written notice from the Assignor to do so;
- (b) the Assignee, being a natural person –
 - (i) becomes bankrupt;
 - (ii) takes, or tries to take, advantage of Part X of the **Bankruptcy Act 1966**;
 - (iii) makes an assignment for the benefit of its creditors;
 - (iv) enters into a composition or arrangement with its creditors, or
 - (v) is unable to pay its debts when they fall due; or
- (c) the Assignee is a corporation and any of the following events occur in relation to it –
 - (i) an order is made, or a resolution is passed, to wind it up except for reconstruction or amalgamation;
 - (ii) an application or order is made to place the Assignee under official management or a resolution is passed to place the Assignee under official management;
 - (iii) a receiver, receiver and manager, official manager, trustee, administrator or similar official is appointed over any of the assets or undertaking of the Assignee;
 - (iv) the Assignee suspends payment of its debts generally;
 - (v) the Assignee ceases or threatens to cease to carry on business;

- (vi) a judgement in an amount exceeding \$10,000 is obtained against the Assignee and is not set aside or satisfied within seven days;
- (vii) the Assignee enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;
- (viii) without the Assignor's prior written consent, there is a change in –
 - (A) membership of the Assignee or its holding company; or
 - (B) beneficial ownership of the shares in the Assignee or its holding company,
 so that a different person or group of persons will control the board of directors or more than 50% of the shares giving a right to vote at general meetings of the Assignee.

9. Effect of Termination or Expiry

9.1 Upon termination or expiry of this Agreement –

- (a) the Assignee will cease to hold the right to operate the Licensed Vehicle under the Licence and must end all use of the Licence;
- (b) subject to the Act, the right to operate a vehicle under the Licence reverts to the Assignor;
- (c) the Assignor must pay to the Assignee any unused portion of the Security Deposit;
- (d) the Assignee must pay the Assignor all amounts owing by the Assignee to the Assignor whether due at that time or not.

10. Notices

- 10.1 Any notice required to be given under this Agreement may be given by post, facsimile or delivery to a party's last known address or registered office.
- 10.2 Posted notices shall be taken to have been received 72 hours after being posted unless proved otherwise.
- 10.3 Notices delivered or sent by facsimile after 5.00 pm shall be taken to be received at 9.00 am on the next business day at the place where it is received.

11. GST

11.1 In this clause 11 –

'GST Act' means the **A New Tax System (Goods and Services Tax) Act 1999** (as amended); and

Expressions used in this clause 11 have the meanings ascribed to them by the GST Act.

11.2 The following provisions of this clause 11.2 apply if any supply under this Agreement is a taxable supply.

- (a) the consideration expressed to be payable under any other clause of this Agreement for any supply made under, or in connection with, this Agreement does not include GST;
- (b) If GST is imposed on any Supply made under or in accordance with this Agreement, the Recipient of the Taxable Supply must pay to the Supplier an additional amount equal to the GST payable on or for the Taxable Supply, subject to the Recipient receiving a valid Tax Invoice in respect of the Supply at or before the time of payment. Payment of the additional amount must be made at the same time and in the same way as payment for the Taxable Supply is required to be made in accordance with this Agreement.

- (c) If this Agreement requires a party ('First Party') to pay for, reimburse, set off or contribute to any expense, loss or outgoing ('Reimbursable Expense') suffered or incurred by the other party ('Other Party'), the amount required to be paid, reimbursed, set off or contributed by the First Party will be the sum of –
- (i) the amount of the Reimbursable Expense net of Input Tax Credits (if any) to which the Other Party is entitled in respect of the Reimbursable Expense (Net Amount); and
 - (ii) if the Other Party's recovery from the First Party is a Taxable Supply, any GST payable in respect of that Supply,
- such that after the Other Party meets the GST liability, it retains the Net Amount.

12. **Special Conditions**

Any special conditions noted in Item 6 of the schedule binds the parties as if set out in the body of this agreement and, to the extent of any inconsistency between the contents of Item 6 of the schedule and the general conditions of this agreement then the provisions of Item 6 will prevail.

13. **Declaration**

By signing this agreement the Assignor and Assignee declare that this Agreement constitutes the entire agreement including all payments made or due in connection with the assignment of the taxi-cab licence and any chattels (includes motor vehicle and / or taxi equipment) or other items or services associated with any agreement related to the assignment of the taxi-cab licence.

EXECUTED AS A DEED

Signed by the **ASSIGNOR**)
in the presence of:)

.....
Witness signature

.....
Witness name (please print)

OR, if Assignor is a company:

EXECUTED by the **ASSIGNOR** in)
accordance with section 127(1) of)
the **Corporations Act 2001** by:)

.....
Director/Sole Director & Sole Secretary

.....
Name (please print)

.....
Director/Secretary

.....
Name (please print)

Signed by the **ASSIGNEE**)
in the presence of:)

.....
Witness signature

.....
Witness name (please print)

OR, if Assignee is a company:

EXECUTED by the **ASSIGNEE** in)
accordance with section 127(1) of)
the **Corporations Act 2001** by:)

.....
Director/Sole Director & Sole Secretary

.....
Name (please print)

.....
Director/Secretary

.....
Name (please print)

Schedule

Item 1. Licence:		
Taxi-cab Licence Number:		
Item 2. Chattels:		
<u>Vehicle:</u>		
Make:		
Model:		
Reg. No. or V.I.N. No.:		
Amount paid for vehicle:		\$
Value of vehicle as declared on VicRoads Application for Transfer of Registration		\$
<u>Taximeter:</u>		
Make/model:		
Amount paid for taximeter:		\$
<u>Taxi Safety Camera:</u>		
Make:		
Serial No.:		
Amount paid for camera:		\$
<u>Other</u> – specify chattels, equipment or other items or services not listed above that are associated with any agreement related to the assignment of the taxi-cab licence.		
Item/service	Amount paid:	\$
Item/service	Amount paid:	\$
Item/service	Amount paid:	\$
Item/service	Amount paid:	\$
Item 3. Term:		
Period commencing on the later of and the Approval Date (' Commencement Date '); and		
Ending on unless terminated earlier in accordance with this Agreement.		

Item 4. Assignment Fee:	
Amount: (exclusive of GST)	\$
When payable: (eg monthly, quarterly)	
Date first payment due:	/ /
Item 5. Security Deposit:	\$
Item 6. Special conditions (if any):	

Appendix 3

Designated Taxi-cab Licence Trader: Authority to Act

THIS AGREEMENT is made/...../.....

BETWEEN:

DESIGNATED TAXI-CAB LICENCE TRADER:

[name]

holding:

- Designated Taxi-cab Licence Trader approval number
 - Australian Business Number [ABN]
- of [address]
- Tel: Fax: Mob:

AND

CLIENT:

[name]

holding:

- Taxi Industry Accreditation Number
 - Australian Business Number [ABN]
- of [address]
- Tel: Fax: Mob:

IT IS AGREED:

1. Interpretation

For the purposes of this Agreement –

‘Assignment Period’ means the period of the proposed assignment of the Licence, as set out in Item 2(b) or as otherwise instructed by the Client (to a maximum period of three years);

‘Authorised Representative’ is detailed in Item 5;

‘Broking Fee’ is the fee specified as the broking fee in Item 1;

‘Designated Taxi-cab Licence Trader’ means a person approved by the General Manager or the Deputy General Manager under the Rules to trade in designated taxi-cab licences.

‘Item’ means an item of the schedule to this Agreement;

‘person’ means a natural person or a corporation;

‘Price’ means price to be paid for the transfer of the Licence as set out in Item 2(a) or the monthly assignment price for the right to operate a vehicle under the Licence, as set out in Item 2(b) or as otherwise instructed by the Client;

‘Rules’ means the rules specified by the Director of Public Transport and published in the Victoria Government Gazette under regulation 7 of the Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005, as amended from time to time;

‘Settlement’ means the settlement of the transfer of the taxi-cab licence;

‘Taxi-cab Licence’ means a designated taxi-cab licence within the meaning of the Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005;

‘Term’ means the term of this Agreement as set out in clause 3;

‘Transport Laws’ means the Transport (Compliance and Miscellaneous) Act 1983 and Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005;

‘VTD’ means the Victorian Taxi Directorate;

2. Appointment

- 2.1 The Client appoints the Designated Taxi-cab Licence Trader as its agent in accordance with the terms of this Agreement. The scope of the appointment is set out in Item 3 of the Schedule. The Designated Taxi-cab Licence Trader accepts the appointment in accordance with the terms of this Agreement.
- 2.2 Each of the Client and the Designated Taxi-cab Licence Trader acknowledges and agrees that this Agreement and the performance by each of them of their obligations under this Agreement are subject to the Rules where applicable.

3. Term of the Agreement

The appointment of the Designated Taxi-cab Licence Trader under clause 2.1 will operate from the date of this Agreement until the earlier of:

- (a) where the dealing listed in the Schedule to this Agreement is a licence transfer, the settlement of the licence transfer;
- (b) where the dealing listed in the Schedule to this Agreement is a licence assignment, the authorisation date of that assignment;
- (c) the expiry of period specified in Item 4 ('Term')

unless terminated earlier in accordance with the terms of this Agreement.

4. Fees and Charges

- 4.1 The Client agrees to pay to the Designated Taxi-cab Licence Trader the fees and charges set out in Item 1.
- 4.2 (a) The Designated Taxi-cab Licence Trader is entitled to payment of the Broking Fee if a Taxi-Cab Licence, is transferred or assigned as contemplated by Item 3 and Settlement occurs during the Term;
- (b) The Broking Fee is due and payable at Settlement.
- 4.3 (a) The Client irrevocably authorizes the Designated Taxi-cab Licence Trader to deduct, from any deposit monies received, all Broking Fees due to the Designated Taxi-cab Licence Trader under this Agreement together with any unpaid VTD application fees but no such deduction may be made before Settlement occurs.
- (b) If the transfer or assignment is arranged and no deposit is received by the Designated Taxi-cab Licence Trader, the Client will pay the Broking Fees at Settlement.
- 4.4 The Client must bear and pay any applicable GST at the same time and in the same manner as it pays the Broking Fee. Unless otherwise indicated the Broking Fee is exclusive of GST. If any stamp duty or other government levied fees are payable by the Client, and the Designated Taxi-cab Licence Trader is to make the payment on behalf of the Client, the Client must pay them to the Designated Taxi-cab Licence Trader at the same time and in the same manner as the Client pays the Broking Fee.

5. Interest

If the Client fails to pay the Designated Taxi-cab Licence Trader any money due under this Agreement then interest at the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983** will be computed and paid to the Designated Taxi-cab Licence Trader on the money owing. Interest will be calculated on a daily basis.

6. Instructions

- 6.1 If the Client is a corporation, the Client authorises the Designated Taxi-cab Licence Trader to accept instructions on behalf of the Client from its Authorised Representative and the Client confirms that the Authorised Representative has the power to do the following in the name, and on behalf, of the Client –
- (a) to give instructions to the Designated Taxi-cab Licence Trader;
 - (b) to acquire, buy, deal with, sell and dispose of any Taxi-Cab Licence;
 - (c) to pay or receive payment for any transaction in connection with a Taxi-Cab Licence;
- and

(d) to execute all necessary or proper contracts and other documents for the dealing, transfer or assignment of a Taxi-Cab Licence and related matters.

6.2 The nominated Authorised Representative must be a natural person listed as a Relevant Person for the purposes of the Client's Taxi Industry Accreditation.

6.3 The Client agrees to ratify and confirm all actions carried out by the Designated Taxi-cab Licence Trader on the instructions of the Authorised Representative.

6.4 Where the Client consists of more than one person, the Designated Taxi-cab Licence Trader may accept instructions from any one or more of those persons on behalf of all of them.

7. Liability

Any signatory for a Client which is a corporation will be personally liable for the due performance of the Client's obligations as if the signatory was the Client. If required by the Designated Taxi-cab Licence Trader the signatory will procure the execution by all company directors of the Client a guarantee to be prepared by or on behalf of the Designated Taxi-cab Licence Trader that is acceptable (in both form and substance) to the Designated Taxi-cab Licence Trader.

8. Information

The Client will provide to the Designated Taxi-cab Licence Trader promptly all information required to properly and accurately carry out the Client's instructions and to complete the documents necessary to obtain the approval of the VTD to the transfer or assignment (as the case may be) of the relevant taxi-cab licence.

9. Indemnity and Release

9.1 The Client indemnifies the Designated Taxi-cab Licence Trader against –

- (a) all losses incurred by the Designated Taxi-cab Licence Trader;
- (b) all liabilities incurred by the Designated Taxi-cab Licence Trader; and
- (c) all costs actually payable by the Designated Taxi-cab Licence Trader to its own legal representatives (whether or not under a costs agreement) and other expenses incurred by the Designated Taxi-cab Licence Trader in connection with a demand, action, arbitration or other proceeding (including mediation, compromise, out of court settlement or appeal);

arising directly or indirectly as a result of or in connection with –

- (d) the proper performance by the Designated Taxi-cab Licence Trader of its obligations under this Agreement; or
- (e) any breach of or failure by the Client to comply with its obligations to the Designated Taxi-cab Licence Trader.

9.2 The Client releases the Designated Taxi-cab Licence Trader from all sums of money, accounts, claims, actions, proceedings, demands and expenses which the Client at any time had or has against the Designated Taxi-cab Licence Trader for or by reason or in respect of any act, cause, matter or thing connected with the proper performance by the Designated Taxi-cab Licence Trader of its obligations under this Agreement.

10. Warranty

10.1 The Client warrants to the Designated Taxi-cab Licence Trader that –

- (a) all information it provides to the Designated Taxi-cab Licence Trader is complete and accurate and not misleading and that the Designated Taxi-cab Licence Trader may rely on that information unless and until the Trader receives written notice of any change from the Client;
- (b) the Client has full power to, and may lawfully, enter into and perform its obligations to the Designated Taxi-cab Licence Trader under this Agreement;
- (c) if the Client is a trustee, that the Client has full power and authority to enter into this Agreement and the transactions contemplated by this Agreement and to exercise the rights and perform the obligations under those arrangements;

- (d) at all times the Client will be in a position to meet its commitments and obligations arising from dealings with the Designated Taxi-cab Licence Trader;
 - (e) the Client will at all times refrain from engaging in behaviour in contravention of, or cause the Designated Taxi-cab Licence Trader to contravene, the Rules or the Transport Laws; and
 - (f) if the Designated Taxi-cab Licence Trader is appointed to arrange for the transfer or assignment of the Licence, the Client is the legal and beneficial holder of the Licence.
- 10.2 The Client acknowledges and agrees that the Client, and all transactions in connection with a Taxi-Cab Licence the Designated Taxi-cab Licence Trader undertakes on behalf of the Client, will be subject to the Transport Laws and the Rules and other laws and rules applicable to Taxi-Cab Licence transactions.
- 10.3 The Client –
- (a) acknowledges that the Designated Taxi-cab Licence Trader may deal on its own account ‘as principal’ for itself or for related parties;
 - (b) acknowledges that its buy or sell orders may be matched with ‘as principal’ orders handled by the Designated Taxi-cab Licence Trader and that accordingly the Designated Taxi-cab Licence Trader may be a party to a transaction with the Client;
 - (c) acknowledges that the Client’s buy or sell orders or instructions may be matched with opposite orders in respect of a Taxi-Cab Licence on behalf of other clients of the Designated Taxi-cab Licence Trader;
 - (d) acknowledges that all transactions will be undertaken on the basis that the Client undertakes as primary obligor all obligations with respect to the execution of any order or transaction the Designated Taxi-cab Licence Trader enters into on behalf of the Client.
- 10.4 The Client acknowledges and agrees that it has been informed by the Designated Taxi-cab Licence Trader that under Part VI of the **Transport (Compliance and Miscellaneous) Act 1983**, no compensation is payable by the State or the Licensing Authority (within the meaning of that Act) to any person in respect of or as a consequence of any decision or determination made pursuant to Part VI of that Act to –
- (a) grant, issue, renew, reject, cancel, suspend or revoke any taxi-cab licence or other certificate, permit, consent, assignment or authority under that Part;
 - (b) add, alter or vary a condition or term of or attached to any taxi-cab licence, certificate, permit, consent, assignment or authority under that Part; or
 - (c) alter the route or area in respect of which a taxi-cab licence has been granted.
- 10.5 The Client acknowledges and agrees that, if a Designated Taxi-cab Licence Trader is acting as an agent for a principal, the Designated Taxi-cab Licence Trader has no personal liability in connection with the transaction including, without limitation, any obligation or liability to pay money in connection with the settlement of the transaction.
- 10.6 The Client acknowledges and agrees that the Designated Taxi-cab Licence Trader is not able to provide any taxation or financial advice to the Client and that the Client will seek its own independent advice in that regard.
- 10.7 The Designated Taxi-cab Licence Trader warrants to the Client that he, she or it will at all times –
- (a) act in the best interest of the client;
 - (b) act ethically, honestly and fairly with his, her or its clients, other VTD Taxi-cab Licence Traders, the taxi industry and members of the public generally;
 - (c) exercise due skill and diligence;
 - (d) perform work with reasonable promptness;

- (e) not engage in harsh or unconscionable conduct; and
- (f) not gain, or seek to gain, personally from any information received in the course of undertaking duties for clients;
- (g) ensure that he, she or it maintains up-to-date knowledge of the VTD policies and procedures and the regulatory requirements associated with the transfer and assignment of taxi-cab licences;
- (h) charge its clients in accordance with the fees disclosed to the VTD; and
- (i) if involved in a transaction as a principal as well as a Trader, disclose that involvement to every other party to that transaction and to the VTD.

11. Termination

11.1 Subject to the Rules, this Agreement will be terminated upon the occurrence of any of the following events –

- (a) by either the Client or the Designated Taxi-cab Licence Trader giving at least five days written notice of termination to the other;
- (b) upon the insolvency of the Designated Taxi-cab Licence Trader;
- (c) if approval of the Designated Taxi-cab Licence Trader is suspended or terminated by the General Manager or the Deputy General Manager of the VTD;
- (d) in the reasonable opinion of the Designated Taxi-cab Licence Trader the Client's instructions breach or may breach any law or statutory or other regulatory requirements, including without limitation the Rules; or
- (e) in the reasonable opinion of the Client the Designated Taxi-cab Licence Trader's conduct breaches or may breach any law or statutory or other regulatory requirements, including without limitation the Rules.

Termination of this Agreement does not affect any rights or obligations that have arisen before that time.

11.2 The provisions of clause 9 are continuing obligations and continue after termination of this Agreement.

11.3 Termination of this Agreement does not affect any –

- (a) claim by the Designated Taxi-cab Licence Trader for accrued fees and charges properly incurred prior to termination;
- (b) any claims which a party may have against the other.

12. Assignment

Neither party can assign its rights or obligations under this Agreement without the written consent of the other party.

13. Obligations joint and several

Where a party to this Agreement comprises more than one person, then each of those persons is jointly and severally bound by this Agreement.

14. Other instructions

Any instructions to the Designated Taxi-cab Licence Trader detailed in Item 6 bind the parties and, to the extent of any inconsistency between Item 6 and the general conditions of this Agreement then the provisions of Item 6 prevail.

15. Designated Taxi-cab Licence Trader's Declaration

I declare –

1. (a) that the Client has satisfied the requirements of the 100 point proof of identity check required by the Australian Transaction Reports and Analysis Centre (AUSTRAC) under the **Financial Transactions Reports Act 1998**, and is the individual named as the Client at the head of this Agreement;

or

- (b) that the Authorised Representative of the Client has satisfied the requirements of the 100 point proof of identity check required by the Australian Transaction Reports and Analysis Centre (AUSTRAC) under the **Financial Transactions Reports Act 1998**, and is the individual named in Item 5 of the Schedule as the Authorised Representative of the Client, appointed by the Client as per clause 6.1 of this Agreement; and
- 2. that the Client holds the appropriate Taxi Industry Accreditation to undertake any function relevant to this dealing; and
- 3. that the Client is the current holder of any taxi-cab licence that I have been engaged to transfer or assign on the Client's behalf.

By, or for and on behalf of, the **Designated Taxi-cab Licence Trader**

Name

Designated Taxi-cab Licence Trader approval number

Signature

By, or for and on behalf of, the **Client**

1st Individual (including Director)

Name (please print)

Signature.....

(State capacity to sign).....

2nd Individual (including Director)

Name (please print)

Signature.....

(State capacity to sign).....

Schedule**Item 1. Designated Taxi-cab Licence Trader Fees & Charges**

\$..... or% of the final (contracted) price, plus GST

Item 2. Taxi-cab licence number (*)**Item 2(a) Transfer (**)**

Proposed price for licence

\$..... (GST exclusive) or as otherwise instructed from time to time

Item 2(b) Assignment ()**

Proposed initial price for Assignment

\$..... per month (GST exclusive) or as otherwise instructed from time to time

Proposed Assignment Period (maximum period three years)

Details of any Variations/Adjustments to Assignment Price (eg increase by CPI):

..... or as otherwise instructed from time to time (exclusive of GST).

Transfer() or Assignment(**) Chattels (**)**

Vehicle –

Make

Model

Reg. No.

price \$

Taximeter –

Make/Model

price \$

Taxi Safety Camera –

Make/Model

Serial No.

price \$

Other()**

Specify chattels, equipment or other items or services not listed above that are associated with any agreement related to the transfer(**) or the assignment(**) of the taxi-cab licence –

Item/service..... price \$.....

Item/service..... price \$.....

Item/service..... price \$.....

Total Price proposed for transfer() or assignment(**) inclusive of chattels and other items (if any) as listed**

\$

Item 3. Scope of Appointment

The Client appoints and authorises the Designated Taxi-cab Licence Trader to arrange for –

1. the transfer by the Client of the taxi-cab licence and the Chattels, if any, for the Price;
2. the transfer to the Client of a taxi-cab licence for the Price;
3. the assignment by the Client of the taxi-cab licence for the Price;
4. the assignment to the Client of a taxi-cab licence for the Price;

in accordance with the Rules and subject always to the approval of the VTD.

Item 4. Term

.....days from the date of this Agreement.

Item 5. Authorised Representative

Name

Address

Telephone

Email

Item 6. Other Instructions to Designated Taxi-cab Licence Trader

(*) Only to be completed where Designated Taxi-cab Licence Trader is acting for Client who is a licence holder seeking to transfer or assign a licence. Delete if not applicable.

(**) Delete if not applicable.

Appendix 4**Designated Taxi-Cab Licence Trader: Client Identification Checklist**

Client Identification is conducted in line with the 100 point check method required by the Australian Transaction Reports and Analysis Centre ('AUSTRAC') under the **Financial Transaction Reports Act 1988** ('FTR').

- 1. Primary Documents** 70 Points
Name of client verified from one of the following primary identification documents –
 - Birth Certificate
 - Birth Card
 - Citizenship Certificate
 - International Travel Document:
 - a current passport
 - an expired passport which has not been cancelled and was current within the preceding two years
 - other document of identity having the same characteristics as a passport (eg this may include some diplomatic documents and some documents issued to refugees).
- 2. Name of Client** 40 Points
Verified from one of the following (only where they contain a photograph or signature that can be matched to the Client) –
 - a licence or permit issued under a law of the Commonwealth, a State, or Territory eg an Australian driver's licence
 - an identification card issued to a public employee
 - an identification card issued by the Commonwealth,
 - a State, or Territory as evidence of the person's entitlement to a financial benefit
 - an identification card issued to a student at a tertiary education institution.
- 3. Name and Address of Client** 35 Points
Verified from one or more of the following –
 - a document held by the cash dealer providing security over the Client's property
 - a mortgage or other instrument of security held by another financial body
 - a current employer, or a previous employer within the last two years
 - a Rate Authority eg Land Rates
 - the Credit Reference Association of Australia (subject to the **Privacy Act 1988**)
 - Land Titles Office records
- 4. Name, Address and Telephone Number** 25 Points
Verified by –
 - reference to the latest telephone directory published by Telstra, or advice provided by Telstra, and
 - telephone contact with the Client on that telephone number.
- 5. Name of Client** 25 Points
Verified from any other secondary identification document relating to the Client eg –
 - Marriage Certificate (for maiden name only)
 - Credit Card
 - Council Rate Notices

- Telephone Account
- Foreign Driver's Licence
- Medicare Card.

More than one document may be counted, but points scored from a particular source may be counted only once, eg if a Master and Visa Card are issued from the same financial institution, only one may be counted.

6. Name and Address of the Client 25 Points

Verified from one or more of the following –

- the electoral roll compiled by the Australian Electoral Commission and available for public scrutiny
- the owner, landlord, or a Real Estate Agent acting as Managing Agent of the premises, if the Client lives in, or conducts their business from, rented accommodation
- the records of a public utility
- a record held under a law other than a law relating to land titles.

7. Name and Date of Birth of the Client 25 Points

Verified from one or both of the following –

- records of a primary, secondary or tertiary educational institution, attended by the Client within the last 10 years
- records of a professional or trade association of which the Client is a member.

Appendix 5

**Designated Taxi-cab Licence Trader:
Financial Reporting, Half-Yearly Balance Sheet**

ASSETS		
Current Assets		
Liquid Assets		
Cash on Hand	\$	Cash floats, petty cash
Cash at Bank and on Deposit	\$	Current accounts, cheque accounts, term deposits
Marketable Securities	\$	Readily tradeable listed equity or debt securities
Trade Debtors	\$	Accounts receivable less doubtful debtors
Subtotal Liquid Assets	\$	
Other Current Assets	\$	Eg inventory, prepayments etc.
Total Current Assets	\$	
Non-Current Assets	\$	Property, plant and equipment, intangibles
TOTAL ASSETS	\$	
LIABILITIES		
Current Liabilities		
Bank Overdrafts and Credit Cards	\$	
Trade Creditors	\$	Accounts payable
Employment Payables	\$	PAYG tax, superannuation, leave provisions, etc.
Other Current Payables	\$	eg accruals, GST liability, and current lease liabilities
Total Current Liabilities	\$	
Non-Current Liabilities	\$	Long term debt and payables
TOTAL LIABILITIES	\$	
NET ASSETS	\$	

EQUITY		
Shareholders' Equity & Reserves	\$	
Retained Earnings	\$	
Current Profit	\$	
TOTAL EQUITY	\$	
NOTES		
Available/unused credit facilities	\$	
Contingent liabilities	\$	

Trust Account Audit

In addition to the information provided in the balance sheet above, the Designated Taxi-cab Licence Trader must also provide to the VTD a full transaction history of the Designated Taxi-cab Licence Trader's trust account for the six-month period under review.

Transaction histories must show –

- that the account is named in a manner that identifies the Designated Taxi-cab Licence Trader and identifies the account as a trust account
- that all transactions are identified by client name
- amounts held by client in trust account.

Transaction histories must reconcile –

- client deposits with client withdrawals and balances
- client deposits with the VTD's records of the Designated Taxi-cab Licence Trader's trading activity
- account balance at the beginning of the reporting period with the account balance at the end of the previous reporting period.

A Designated Taxi-cab Licence Trader's trust account must never show a negative balance.

Appendix 6

Designated Taxi-cab Licence Trader:**Application Information**

Under section 150A of the **Transport (Compliance and Miscellaneous) Act 1983**, a person must not trade in taxi-cab licences unless authorised to do so.

To become an authorised trader in taxi-cab licences, an application submission must be made to the General Manager or Deputy General Manager of the Victorian Taxi Directorate (VTD) containing the following information:

For natural person applicants –

- a) a current (not older than six months) National Police Certificate in the name of the applicant;
- b) evidence that the applicant meet the requirements of the Demonstration of Experience and Good Character below;
- c) evidence that the applicant has necessary financial resources to meet its obligations as a Designated Taxi-cab Licence Trader.

A natural person applicant is a Responsible Person for the purposes of the Taxi-cab Licence Market Trading Rules.

For corporate applicants –

- a) a current (no older than 28 days) ASIC company extract, showing the registered company name and address of the applicant, and listing all directors and office-holders of the applicant;
- b) a current (not older than six months) National Police Certificate for each director or office-holder of the applicant;
- c) evidence that at least half of the directors of the applicant are residents of an Australian state or territory;
- d) evidence that at least half of the directors of the applicant meet the requirements of the Demonstration of Experience and Good Character below;
- e) from
 - (i) all directors of the applicant that are not required to meet the requirements of the Demonstration of Experience and Good Character;
 - (ii) each person who has a substantial holding in the corporate applicant or its holding company;

an undertaking to the General Manager or the Deputy General Manager and to the applicant to that the person is of good character and integrity and has undertaken to the General Manager or the Deputy General Manager and to the applicant to comply with and be bound by the Taxi-cab Licence Market Trading Rules in connection with the business to be conducted by the applicant as a Designated Taxi-cab Licence Trader;

- f) a nomination of a Responsible person;
- g) a declaration that there is no provision in the applicant's constitution which would prevent the applicant from complying with the Taxi-cab Licence Market Trading Rules; and
- h) evidence that the applicant has necessary financial resources to meet its obligations as a Designated Taxi-cab Licence Trader.

References declaring good character and a satisfactory National Police Certificate in respect of a person are not required to be submitted if the person –

- (a) holds a current accreditation under Division 4 of Part VI of the Act; or
- (b) is a relevant person, within the meaning of Division 4 of Part VI of the Act, in relation to a person, within the meaning of that Division, who holds a current accreditation under that Division.

The person's Taxi Industry Accreditation number must be included.

Demonstration of Experience and Good Character

To demonstrate their experience and good character, a person must –

- (a) satisfy the General Manager or the Deputy General Manager that they have at least two years relevant experience. Relevant experience is defined as:
 - (i) experience in a commercial environment that relates to the buying, selling and/or leasing of assets; or
 - (ii) experience in acting as a business principal, including undertaking the day to day management of a commercial enterprise;and, without limiting the discretion of the General Manager or the Deputy General Manager in this regard, includes:
 - (iii) facilitating the transfer or assignment of taxi-cab licences at a NSP or other business;
 - (iv) acting as a licensed securities dealer; or
 - (v) acting as a real estate agent or a real estate agent's representative;
- (b) not have been convicted or found guilty of any dishonesty or fraud offence under the **Crimes Act 1958** or other Victorian legislation (or the corresponding provisions of the law of another jurisdiction);
- (c) not be convicted or found guilty of any Level 1 or Level 2 offences as defined in section 86 of the Act (or the corresponding offences of the law of another jurisdiction);
- (d) not have any disqualification from managing corporations pursuant to Part 2D.6 of the Corporations Act; and
- (e) not be insolvent under administration within the meaning of the Taxi-cab Licence Market Trading Rules.

The General Manager or the Deputy General Manager will determine an application within 90 days of receiving a fully completed application.

If, at any time before an application is determined, the applicant, a director of the applicant, or a person proposed as a Responsible Person of the applicant is or becomes subject to any pending court action, whether civil or criminal, the General Manager or the Deputy General Manager may defer the determination of the application until the expiry of 90 days after the final determination of that action.

Applicants are strongly encouraged to familiarise themselves with the Taxi-cab Licence Market Trading Rules prior to preparing an application for submission to the VTD.

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