PROPOSED MODEL REGULATIONS FOR SMARTPHONE APPLICATIONS IN THE FOR-HIRE INDUSTRY

Prepared by Windels Marx Lane & Mittendorf, LLP

Interactive International Forum & Public Hearing

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Mission Statement of the IATR Smartphone Apps Committee

The purpose of the App Committee is to develop model regulations to ensure smartphone application technology can exist fairly, safely and with accountability to protect the consumer, while creating a level playing field for transportation providers.

Committee Members:

Professor Matthew W. Daus, Esq., President, IATR, Chair
Marcy Cardona, Austin
Ashwini K. Chhabra, New York City
Mark Cohen, Boston
Tom Drischler, Los Angeles
Tom Downey, Denver
Christiane Hayashi, San Francisco
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John Barton, National Institute for Standards & Technology
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Background

In July 2012, Windels Marx published a report entitled: “Rogue” Smartphone Apps for Taxicabs & Limousines: Innovation or Unfair Competition? – A National Regulatory Review of Safety, Accountability & Consumer Protection Legal Issues. The report was authored by Matthew W. Daus, a Partner and Chair of the Transportation Practice Group at Windels Marx, with the assistance of the group’s attorneys and staff. Mr. Daus, the longest serving Taxi and Limousine Commissioner for New York City, also serves as the President of the International Association of Transportation Regulators (IATR), a group of government officials who license and regulate for-hire ground transportation around the world. As IATR President, Daus called for the creation of a Smartphone App committee comprised of regulators from different cities to draft and develop a model code of regulations governing the use of emerging Apps and related technology.

Technology start-ups have been issuing smartphone applications which allow for the hailing or arranging of a vehicle, removing the dispatch or taxi/limousine company from identification where technology companies interact directly with drivers – sometimes without obtaining proper licenses. Many jurisdictions are struggling to understand the operations of these apps while they roll-out into their communities.

In preparing its report on rogue apps, Windels Marx examined how these apps operate, reviewed the regulations within several cities across the nation, and identified several legal issues as a result of this review. In support of the Apps Committee, Windels Marx conducted additional research for noteworthy regulations or innovative approaches to incorporating technology, defining for-hire services and preserving protections for consumers, which were the foundation for the proposed model regulations submitted to the IATR Committee for consideration. President Daus and the IATR Committee have considered these issues in the final version of the proposed model regulations. The issues raised, and the answers from the App Committee proposed in the model regulations, are as follows:

- **Prearrangement or Electronic Street Hail?** Since some applications may potentially run afoul of industry regulations, the model regulations state that the use of a smartphone is an electronic hail (“e-hail”) if the request for transportation is intended to be for immediate or on-demand transportation service, and may be considered prearranged if the request for transportation service is for more than 30 minutes in the future of the request.

- **Safety Concerns.** Many applications are technology start-ups and many do not hold a specific transportation license. In response, the proposed model regulations, smartphone applications that do not provide transportation will be obligated to obtain dispatch licenses and contract with licensed third-parties and, as such, will be responsible for the service and the transportation provided.

- **Use of “Taxi” or “Taxicab” in the App Name.** In order to prevent consumer confusion and enforce the distinctions as to how taxicabs operate, the proposed regulations, smartphone applications may use the word or words “taxi” or “taxicab” if they are licensed as a dispatch business and affiliated with – and dispatch only – taxicabs.
• **Illegal Service Refusals.** Since some applications may allow a driver to accept or decline potential dispatches and possibly discriminate against consumers, the proposed regulations, smartphone applications would be required to comply with all local laws for licensed transportation services.

• **“Fair” Fares.** In an effort to provide protection for consumers and provide passengers with confidence as to the final fare, the proposed regulations require that smartphone applications may not charge any fees, costs or expenses to the passenger in excess of the fare displayed on the meter or taximeter (as applicable), the prearranged flat fare, or the hourly rate for the service provided.

• **Avoid Responsibility?** Some smartphone applications have attempted to avoid responsibility for their customers by requesting that passengers will waive their rights prior to using the applications. In response, the model regulations state that no entity or Dispatch Business may require passengers to waive their rights relating to the provision of the transportation and/or dispatch services.

• **Is it a taximeter?** Some applications may use their own technology, including Global Positioning System (“GPS”), to calculate the fare based on time, mileage and demand, which does not meet taximeter standards and may or may not be consistent with the fare charged to each passenger using the same application, or passengers using any other application. The model regulations propose that a smartphone application may not act in lieu of a taximeter or meter until it receives approval based on NIST Handbook 44 requirements and such other regulatory approvals, as applicable. In any event, there shall only be one taximeter or meter in any taxicab, and no taximeter or meter shall be permitted in any luxury sedan/limousine.

In sum, the proposed model regulations to be considered at the interactive international forum and public hearing at the IATR 25th Anniversary Conference on November 16, 2012 represent a balanced approach to create fair standards that may be adopted and incorporated into the regulatory framework of most jurisdictions that oversee local for-hire transportation. The proposed regulations *infra* are based on research of best practices to ensure there is a level playing field between taxicab and luxury sedan/limousine sectors and that each sector can operate with technology companies that do not pose a threat to the licensed transportation providers or to consumer confidence in the for-hire industry.
Notice of Public Hearing and Opportunity to Comment on Proposed Regulations

What are we proposing? The IATR Smartphone Apps Committee is proposing model regulations clarifying or expanding the definitions and regulations of for-hire transportation services in order to enhance and modernize such regulations. The proposed model regulations are to be carefully evaluated and may be incorporated, as applicable, into various jurisdictions' for-hire regulations in order to adequately address the use of smartphone applications in transportation services. The current use of smartphone applications creates public safety concerns and raises, inter alia, the following questions: (a) Is the use of a smartphone application considered prearrangement or an electronic street hail? (b) Are the smartphone application companies responsible for the transportation they arrange/provide? (c) Are or should smartphone applications be permitted to use the words “taxi,” “taxicab,” “cab” and “hack” in their names? (d) What obligations, if any, do smartphone applications have to provide accessible transportation and/or not to illegally refuse service requests in such jurisdictions with accessibility requirements? (e) Are the fares charged through the use of smartphone applications consistent with regulations, i.e.: can a smartphone application require the passenger to pay a gratuity and/or can a limousine/executive sedan use a meter? (f) Is a smartphone a taximeter, or is its use permitted in taxicabs in lieu of a taximeter?

The proposed definitions and model regulations set forth below attempt to answer each of the foregoing questions with the following general responses: (a) The use of a smartphone is an electronic hail ("e-hail") and if the request for transportation is intended to be for immediate or on-demand transportation service, the request is considered “on-demand booking”, but may be considered prearranged if the request for transportation service is for more than 30 minutes in advance of the arrival time; (b) Although there may be some different approaches by regulators, smartphone applications will be obligated to obtain dispatch or other applicable taxi or limousine business licenses (depending on local laws and rules), or in jurisdictions where dispatch licenses do not exist, any licensed taxi or limousine business contracting with

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1 The term "mobile application" is defined and used in the model regulations since these applications are available for smartphones, tablets and other mobile devices.
a third-party app to provide transportation services shall be held accountable for ensuring compliance with the same restrictions as set forth herein pertaining to dispatch license requirements; (c) Smartphone applications may use the word or words “taxi,” “taxicab,” “cab” or “hack” if they are licensed as a dispatch business and affiliated with – and dispatch only – taxicabs; (d) As dispatch businesses, if the jurisdiction has accessibility dispatch requirements, smartphone applications will be obligated to affiliate with a sufficient number of accessible vehicles and be liable for service denials and/or discrimination; (e) As dispatch businesses, smartphone applications may not charge any fees, costs or expenses to the passenger (or payor) and shall not permit its affiliated drivers to charge any fees, costs or expenses in excess of either (i) the fare displayed on the meter or taximeter, as applicable or (ii) the flat fare prearranged or (iii) the hourly rate for the service provided; and (f) A smartphone application may not act in lieu of a taximeter or meter until it receives approval based on NIST Handbook 44 (defined below) requirements and such other regulatory approvals, as applicable. In any event, there shall only be one taximeter or meter in any taxicab, and no taximeter or meter shall be permitted in any limousine/executive sedan.

*When and where is the Hearing?* The Committee will hold an interactive international form and public hearing on the proposed model regulations. The public hearing will take place at 1:30 p.m. on Friday, November 16, 2012. The hearing will be held at the IATR 25th Anniversary Conference at the Four Seasons Hotel located at 2800 Pennsylvania Avenue Northwest, Washington, DC 20007.

*How do I comment on the proposed rules?* Anyone may comment on the proposed model regulations by:

- **Mail.** You may mail written comments to Professor Matthew W. Daus, Esq. c/o Windels Marx Lane & Mittendorf, LLP, 156 West 56th Street, New York, New York 10019.

- **Fax.** You may fax written comments to Professor Daus at 212-262-1215.

- **Email.** You may submit your comments in writing via email to: MDAus@windelsmarx.com

- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed model regulations at the public hearing must sign-up to speak. You may sign-up before the hearing at the IATR Conference. You may also sign-up in the hearing room before the hearing begins on November 16, 2012. You may speak up to three (3) minutes.

*Is there a deadline to submit written comments?* Yes, you must submit written comments by December 15, 2012.
Statement of Basis and Purpose of Promulgated New Rules

We have reviewed and considered the regulations of the twelve (12) most populated cities in the United States, as well as several smaller cities for which we found that there are noteworthy regulations or innovative approaches to defining various for-hire services. In light of our review, our proposed regulations will endeavor to present a balanced and uniform standard adaptable to most, if not all, jurisdictions. It is our hope and goal that the proposed regulations embody our understanding of best practices in defining various services and business licensing distinctions, to create a fair and sensible differentiation and playing field between taxicab and limousine (collectively, the limousine and executive sedan) sectors. In our proposed regulations, each sector has a defined role in the for-hire industry, substantially reducing or eliminating the gray areas, loopholes and unfair cross-market competition. We believe the distinctions set forth below are vital elements to a socially and economically successful for-hire industry. In fact, the most notorious complaint about “rogue” for-hire services – whether that refers to unlicensed drivers and/or vehicles or drivers and/or for-hire companies operating outside the perceived and understood regulatory apparatus – is that they create an uneven playing field in providing transportation services.

As smartphone applications continue to evolve and their use is further incorporated into transportation services, there is a need to ensure public safety and welfare and create regulations that appropriately reflect and incorporate the use of such technology. Currently, there are several “rogue” smartphone applications being used in the transportation industry. Most of the rogue smartphone applications are operating in the “gray areas” of the regulatory apparatus, without any or limited regulatory oversight, depending on the jurisdiction. As such, this innovation commands adoption of new regulations authorizing the use of smartphone applications as a means of connecting passengers and transportation services. Such regulations will provide licensure for smartphone applications and ease or eliminate any public safety concerns.

It is our intention to incorporate new definitions and new regulations to bring rogue applications into compliance and incorporate the use of technology into the current regulations to create a fair and even playing field and not to re-write each jurisdiction’s regulations or requirements with regard to specific information not included below. Generally speaking, the model regulations below are tailored to address the “rogue” attributes of smartphone applications and close the gap in any potential gray areas in the regulation of each for-hire transportation sector. As such, the model regulations set forth below do not

2 A summary setting forth the regulations in each jurisdiction reviewed will be separately available, upon request.
address or attempt to address the broader and more general scope of regulating the for-hire transportation industry. These model regulations should not be taken alone, but rather, incorporated, as applicable, into existing regulations to form a more complete symmetry among the individual sectors of for-hire transportation.

In consideration of the forgoing, these proposed regulations set forth new definitions creating two separate and distinct sectors in the for-hire industry: limousine/executive sedan and taxicab. First, as the most premium service, the proposed regulations define a limousine and executive sedan as a Limousine that operates with both a minimum fare and a prearrangement requirement, and will assess fares exclusively based on time hired. This sector is reserved for elite vehicles and service. Second, the proposed regulations define a taxicab as a for-hire vehicle which accepts fares by street hail or prearrangement (depending on the jurisdiction), and prearranges fares or assesses fares through the use of an approved taximeter — thereby requiring compliance with Handbook 44 and Publication 14 issued by the National Institute of Standards and Technology (“NIST”), depending on the jurisdiction. For the minority of jurisdictions that have not adopted NIST Handbook 44 (as defined below), the model regulations set forth below may be amended to delete all references to Handbook 44 and incorporate the state regulatory scheme with which such jurisdictions comply. Although our proposed taxicab sector is not vastly different than the general understanding of a taxicab industry, our proposed regulations draw clear, bright-line distinctions between the sectors, venturing beyond what is currently evidenced in many jurisdictions, thereby substantially reducing or eliminating any gray area to operate.

We anticipate there may be limited overlap between the taxicab and limousine industries. Each of the industries primarily targets a different service and market, and if each type of vehicle is operating in compliance with the proposed regulations, these transportation modules will not directly compete with each other. For example, a taxicab will operate to serve the immediate or “on-demand” and for-hire transportation demands to the central business district or the surrounding communities and limousines/executive sedan will operate to serve the luxury or premium service requests. The limited overlap may exist in terms of prearranged transportation for those passengers without preference as to whether the service is premium or not. In such instances, a passenger may arrange for a taxicab or a limousine/executive sedan, depending on market factors such as availability and price.

Limousines/executive sedans may operate in either the central business district or surrounding communities and are not incentivized to do either, but, rather, are encouraged to follow market demands. The minimum prearrangement time will assist in distinguishing between the transportation modes by
restricting executive sedans and limousines from accepting any type of “on-demand” fare or street hail. Further, the minimum fare will be set at a rate higher than the average taxicab fare to further the policy goal of appropriately distinguishing the modes of Limousine service in the transportation industry. The minimum fare and minimum prearrangement will work collectively to distinguish the taxicab and limousine sectors and will provide luxury vehicle drivers and companies with an appropriate wage and sufficient income to maintain luxury vehicles to an elite standard as set forth in the proposed regulations.

The proposed regulations also include accountability provisions for the company and the driver for non-compliance. In this model, compliance is pivotal, and non-compliance will not be tolerated. In order for each market to thrive, all participants must comply with the regulations and compete only within the sector in which they are licensed.
Model Regulations

These newly promulgated rules are authorized by the [section/title] of [body of law].

Definitions

- **Dispatch (Dispatching, Dispatched):** any electronic, radio or telephonic communication to a Limousine/Executive Sedan or Taxicab Driver, irrespective of whether such communication is from a portable or handheld device, monitor, smartphone or other electronic device or unit and including an E-Hail, indicating the location of a passenger for immediate [and prearranged, as applicable] transportation service or in connection with any [regulatory body] matter. No entity or Dispatch Business may Dispatch a [Limousine/Executive Sedan or Taxicab] Driver and/or vehicle or cause a Dispatch to be made by another without a valid Dispatch License. No [Limousine/Executive Sedan or Taxicab] Driver may accept a Dispatch from a hand-held remote device while driving [or standing (applicable to jurisdictions with Taxicabs equipped with taxicab technology systems)].

- **Dispatch Business:** an entity authorized by the [regulatory agency] to Dispatch [Limousine/Executive Sedan or Taxicab] Drivers and/or [Limousine/Executive Sedan or Taxicabs] that is affiliated with the Drivers or on behalf of licensed owners, and holds a required Dispatch License. No entity, person or Dispatch Business may Dispatch a [Limousine/Executive Sedan or Taxicab] Driver and/or [Limousine/Executive Sedan or Taxicab] Driver and/or [Limousine/Executive Sedan or Taxicab] it is not affiliated with unless it does not have a driver/vehicle to Dispatch and so notifies the customer/passenger that it is not affiliated with said driver/vehicle or an unlicensed [Limousine/Executive Sedan or Taxicab] Driver and/or unlicensed [Limousine/Executive Sedan or Taxicab]. A Dispatch Business shall, upon request, produce a Passenger Manifest. No Dispatch Business may Dispatch both Limousine/Executive Sedan and Taxicabs.

- **Dispatch License:** Authorization from the [regulatory body] to Dispatch a [Limousine/Executive Sedan or Taxicab] Driver and/or [Limousine or Taxicab]. No entity, person or Dispatch Business may Dispatch a [Limousine/Executive Sedan or Taxicab] Driver and/or [Limousine or Taxicab] without a valid Dispatch License or other license authorizing transportation services. [Note: if jurisdiction allows for the dispatch of both Taxicabs and Limousines, must specify “Taxicab Dispatch License” and “Limousine Dispatch License.”]

- **E-Hail:** the use of any electronic device in any manner, including internet pages, e-mail, text message, push notification or application for the connection of or communication between a passenger and driver, or agents thereof, irrespective of whether such communication is from a portable or handheld device, monitor, smartphone or other electronic device or unit, for the On-Demand Booking of transportation services. No Driver may accept an E-Hail from a hand-held remote device while driving [or standing (applicable to jurisdictions with Taxicabs equipped with taxicab technology systems)].

- **Indemnification:** no entity or Dispatch Business may require passengers utilizing the entity’s or Dispatch Business’ transportation and/or dispatch services to indemnify such entity or waive its rights to proceed against such Dispatch Business or any Dispatch Business relating to the
provision of the transportation and/or dispatch services.

- **Limousine/Executive Sedan Driver**: means a driver licensed by the [regulatory body] as a Limousine/Executive Sedan driver (commonly referred to as a “Limousine Driver”).

- **Limousine/Executive Sedan** (Executive Sedan shall be commonly referred to as a “Limousine”): a motor vehicle licensed by the [regulatory body] as a Limousine authorized to carry passengers for-hire in the [jurisdiction] which (a) has a seating capacity of less than [25] passengers if it is a limousine or not more than [7] if it is an executive sedan, (b) is not a Taxicab, (c) has three or more doors (d) shall only accept passengers on a Prearranged basis, (e) shall be affiliated with only one [Limousine Base or Limousine Dispatch Business], (f) shall calculate fares on an hourly basis or prearranged with the customer or payor in advance of providing such service, and said rates can be based on time, flat or zone rates, but shall be prohibited from setting or collecting any charges based upon supply and/or demand or time and distance combined or distance or through the use of any device or instrument, including a Taximeter or another device functionally equivalent to a Taximeter, (g) shall charge a minimum fare, (h) may charge flat rates to common destinations such as an airport, (i) may assess waiting time charge in addition to prearranged fare, and (j) shall, upon request by the [regulatory body or its enforcement agent], produce a Passenger Manifest created in advance of the trip.

- **Limousine Base**: (used in alternative to Limousine Dispatch Business) is a [regulatory body] licensed business for Dispatching Limousine(s), and the physical base location from which Limousine(s)/Executive Sedan(s) are Dispatched. A Limousine or Executive Sedan shall be affiliated with a Limousine Base and may only be Dispatched by its affiliated Limousine Base. No entity or Limousine Base may (1) Dispatch a Limousine/Executive Sedan Driver and/or Limousine/Executive Sedan without a valid Limousine Base License or (2) Dispatch a Taxicab Driver and/or Taxicab. Each Limousine Base shall calculate fares on an hourly basis or prearranged with the customer or payor in advance of providing such service, and said rates can be based on time, flat or zone rates, but shall be prohibited from setting or collecting any charges based upon supply and/or demand or time and distance combined or distance or through the use of any device or instrument, including a Taximeter or another device functionally equivalent to a Taximeter.

- **Limousine Base License**: (used in alternative to Limousine Dispatch Business) is the formal approval granted by the [regulatory body] certifying that a Limousine Base has met the criteria and is now qualified to operate under supervision of the [regulatory body] and authorized to Dispatch Limousine/Executive Sedan Drivers and/or Limousines/Executive Sedans affiliated with it.

- **Limousine Dispatch Business**: an entity authorized by the [regulatory agency] to Dispatch Limousine/Executive Sedan Drivers and/or Limousine/Executive Sedans it is affiliated with and holds a required Limousine Dispatch License. No entity, person, Taxicab Dispatch Business, Limousine Dispatch Business may Dispatch a Limousine/Executive Sedan Driver and/or Limousine/Executive Sedan without a valid Limousine Dispatch License. No Limousine Dispatch Business may Dispatch a Limousine/Executive Sedan Driver and/or Limousine/Executive Sedan it is not affiliated with unless it does not have a driver/vehicle to Dispatch and so notifies the customer/passenger in advance that it is not affiliated with said Driver/vehicle to be Dispatched or an unlicensed Limousine/Executive Sedan Driver and/or unlicensed Limousine/Executive Sedan. No Limousine Dispatch Business may Dispatch a Taxicab and/or Taxicab Driver.
- **Mobile Application:** is any third party native application installed onto a mobile device, including devices such as smartphones, tablets, iPods or iPads used to arrange or coordinate Limousine/Executive Sedan or Taxicab transportation service.

- **On-Demand Booking:** (which is also known as “demand response”) the request of for-hire transportation services that is made less than thirty (30) minutes before the requested arrival time of the vehicle. No Limousine shall accept On-Demand Booking.

- **Passenger Manifest:** shall be created in written form, electronic or otherwise, in advance of the trip detailing at a minimum: (1) the date and time of [Prearrangement or Dispatch], (2) the passenger pick-up location, and (3) the fare to be charged or method of calculation to be used, which must be consistent with the fare prearranged in advance and/or applicable law or [regulatory body] regulation and must be maintained for a period of at least [x-months or one (1) calendar year from the date of the Passenger Manifest].

- **Prearranged or Prearrangement:** shall require a minimum of thirty (30) minutes between the request for transportation service and the arrival of the vehicle at the transportation origin location. E-Hails which request service more than thirty (30) minutes in advance of the arrival times are considered Prearranged service and may be allowed only so long as the acceptance of said service is facilitated through a licensed Dispatch Business, and is acknowledged by or otherwise communicated to the driver while not currently engaged in another prearranged call, and for licensed Taxicabs, not after having observed an on-demand passenger street hail. E-Hails which request service for less than (30) minutes in advance of the arrival times shall be considered On-Demand Booking and shall be only accepted by Taxicabs. E-Hails may not be accepted or acknowledged by a driver through a handheld device while the driver is driving and/or operating a vehicle. Prearranged service rates, other than Taxicab rates [approved by the local regulatory body] calculated by an approved Taximeter, shall be prearranged with the customer or payor in advance, and said rates can be based on time, but shall be prohibited from setting or collecting any charges based upon supply and/or demand or distance.

- **Rideshare:** The travelling of two or more persons by any mode of private passenger vehicle, including, but not limited to, carpooling, vanpooling, buspooling, to any location incidental to another purpose of the driver, without charge, fee, or payment, for which a gratuity is neither accepted, collected, encouraged, promoted and/or requested, and for which the primary purpose of the driver cannot be profit or revenue based. Gratuity herein shall not include reimbursement for gasoline usage or tolls. Currency or any other form of electronic payment or other consideration collected in excess of reimbursement for gasoline usage shall be considered for-hire transportation, and such applicable licenses are required. Rideshare transportation is exempt from [regulatory body] licensure. Rideshare services exclude any and all for-hire transportation as defined within this Code.

- **Taxicab, Taxi, Cab or Hack:** means a motor vehicle having one Taximeter, which shall be used every time the Taxicab is engaged, unless the fare is predetermined in advance of the trip, including flat rates to common destinations such as airport, licensed by the [regulatory body] as a Taxicab, [bearing a medallion/permit indicating such license,] authorized to carry up to seven (7) passengers and shall accept on demand hails from passengers on a public street, or other public or private area immediately adjacent to a public street, or a Dispatch from a valid Taxicab Dispatch Business.

- **Taxicab Dispatch Business:** an entity authorized by the [regulatory agency] to Dispatch Taxicab
Drivers and/or Taxicabs it is affiliated with and holds a required Taxicab Dispatch License. No entity, person, Taxicab Dispatch Business or Limousine Dispatch Business may Dispatch a Taxicab Driver and/or Taxicab without a valid Taxicab Dispatch License. No Taxicab Dispatch Business may Dispatch a Taxicab Driver and/or unlicensed Taxicab it is not affiliated with unless it does not have a Driver/vehicle to Dispatch and so notifies the customer/passenger that it is not affiliated with said Driver/vehicle or an unlicensed Taxicab Driver and/or unlicensed Taxicab. No Taxicab Dispatch Business may Dispatch a Limousine/Executive Sedan and/or Limousine/Executive Sedan Driver.

- **Taxicab Driver**: means a driver licensed by the [regulatory body] as a Taxicab diver.

- **Taximeter**: means an instrument or device consistent with the requirements of [NIST Handbook 44 or other designated weights and measures agency] and approved by the [regulatory body] [and any other applicable weights and measures regulatory agency] that operates in conjunction with an installed or permanently affixed device in a Taxicab which automatically calculates at predetermined rates and plainly displays the charges to the passenger of a Taxicab [or communicates such fare to an approved Taxicab technology such as a PIM or other approved technology to display the fare]. The Taximeter shall be the only instrument authorized to calculate fares in a Taxicab. No such instrument may at any time base the calculation of its fares on supply and/or demand, and all such taximeter rates must be fixed and approved by [the regulatory agency]. Any device which calculates fares charged to passengers for Taxicab service, including devices which operate remotely based upon vehicle location technology, and which bases said fares upon time and distance, is considered a Taximeter, and must be licensed and approved [by the regulatory weights and measures agency and local regulatory body], irrespective of whether such device is a portable or handheld device, monitor, smartphone or other electronic device or unit.

- **Third-Party Agreement**: any written or oral agreement or arrangement made by a Dispatch Business which provides for affiliations, subcontracting or revenue/fee sharing for Dispatches.
Section 1. Registration.

(a) Licensing. All entities which offer or make available its technology or service to “E-Hail,” Dispatch or in any way connect potential passengers and [Limousine/Executive Sedan or Taxicab] through the use of a Mobile Application, text message, internet web page, or email communication must register their technology or service with the [local regulatory body] and in exchange the [regulatory body] will issue a [Dispatch License or Limousine Base License] to such entity.

i. The [regulatory body] shall require the following in order to obtain a [Dispatch License or Limousine Base License]:

1. Entity information, as applicable
   1. For Limited Liability Companies:
   2. For Corporations:
   3. For Partnerships:

2. Contact information, including the following:
   1. business address
   2. primary contact, including email and phone number
   3. designee and address for service of process

3. Evidence of [$_____] of General Business Liability Insurance [and/or] a 
   [$_____] bond to held by and payable to the [regulatory body].
   1. Upon any change in the required insurance, within thirty (30) days the 
      Licensee shall furnish a copy of the revised/new insurance policy 
      information;
   2. The [regulatory body] may draw upon the above referenced bond in 
      the event the [Dispatch Business or Limousine Base] fails to pay any 
      fines for more than [120] days.
      a. In the event the [regulatory body] draws upon the bond, the 
         [Dispatch Business or Limousine Base] shall be required to 
         restore such draw to the value of the bond within [15 days].
b. In the event the [Dispatch Business or Limousine Base] does not restore the value of the bond, the [regulatory body] may in its discretion temporarily revoke [Dispatch Business’ or Limousine Base’s] [Dispatch License or Limousine Base License].

3. A [Dispatch Business or Limousine Base] shall not Dispatch until such General Business Liability Insurance [and/or] a [$_____] bond has been evidenced to the satisfaction of the [regulatory body].

ii. All validly licensed [Dispatch Companies or Limousine Bases] shall be subject to inspection of facility, equipment and/or records during all regular business hours to assure that the facility, equipment and/or records and procedures meet the requirements as set forth by the [regulatory body] at [section, title to regulatory law].

iii. No [Dispatch Business] may use the word “taxi”, “taxicab”, “cab”, or “hack” in its name unless it is affiliated with licensed Taxicabs. In no event shall a [Dispatch Business] affiliated with Taxicabs Dispatch Limousine/Executive Sedan or Limousine/Executive Sedan Drivers nor shall a [Dispatch Business or Limousine Base] affiliate with Limousine/Executive Sedan Dispatch a Taxicab or Taxicab Drivers.

iv. No [Dispatch Business or Limousine Base] may discriminate in the Dispatch of service against any member of the public requesting transportation service.

(b) Dispatch Requirements. As a condition to holding a [Dispatch License or Limousine Base License], each [Dispatch Business or Limousine Base] must comply with the following:

i. [Only applicable to jurisdictions with existing accessibility rules or requirements] All [Dispatch Companies or Limousine Bases] must maintain [x – number or percentage to be determined by the regulatory body] of wheelchair accessible [Limousine/Executive Sedan or Taxicabs] at all times.

1. [Only applicable to jurisdictions with existing accessibility rules or requirements], [E]ach [Dispatch Business or Limousine Base] shall maintain a working relationship with at least one (1) additional [Dispatch Business or Limousine Base] to which it may send service requests for wheelchair accessible transportation via the same or similar means as the [Dispatch Business or Limousine Base] provides when said [Dispatch Business or
Limousine Base] does not have availability of wheelchair accessible transportation.

ii. All [Dispatch Companies or Limousine Bases] have an affirmative duty to respond to each and every request for transportation service and Dispatch a [Taxicab or Limousine/Executive Sedan] as the passenger requested, including the Dispatch of a wheelchair accessible, if accessibility rules are required of the regulatory agency [Taxicab or Limousine/Executive Sedan], as applicable.

1. [Only applicable to jurisdictions with existing accessibility rules or requirements ] If the request is made for wheelchair accessible transportation and the [Dispatch Business or Limousine Base] does not have a sufficient supply of wheelchair accessible [Taxicab or Limousine/Executive Sedan] available at the time of the request, the [Dispatch Business or Limousine Base] shall contact another licensed [Dispatch Business or Limousine Base] to provide the service. In no event shall the original [Dispatch Business or Limousine Base] be relieved of the responsibility to provide the necessary communication to another licensed [Dispatch Business or Limousine Base] and ensure the passenger is picked up. The original [Dispatch Business or Limousine Base] must contact and attempt to fill the service request with a minimum of [x] [Dispatch Businesses or Limousine Bases] before it may deny the request for wheelchair accessible transportation service.

2. If the [Dispatch Business or Limousine Base] does not have a sufficient supply of [Taxicab or Limousine/Executive Sedan] available, the [Dispatch Business or Limousine Base] shall be required to contact another [Dispatch Business or Limousine Base] to provide the service. In no event shall the original [Dispatch Business or Limousine Base] be relieved of the responsibility to provide the necessary communication to another licensed [Dispatch Business or Limousine Base] and ensure the passenger is picked up. The original [Dispatch Business or Limousine Base] must contact and attempt to fill the service request with a minimum of [x] [Dispatch Businesses or Limousine Bases] before it may deny the request for transportation service.
iii. Unless otherwise stated herein, no [Dispatch Business or Limousine Base] may refuse for any reason to Dispatch a [Taxicab or Limousine/Executive Sedan] upon request for same, including such discriminatory reasons as passenger pick-up or drop-off location, a request for accessible transportation, passenger age, sex, race, color, creed or religion.

Section 2. Penalties for Unlicensed Activity.

(a) [Dispatch Business or Limousine Base]. Any entity which is found to offer or make available its technology or service for the purposes described in [Section 1 (a)] above which is not licensed by [the regulatory body] is subject to civil [or criminal, as applicable] penalties, [as deemed appropriate by the regulatory body].

(b) Driver. Any [Taxicab or Limousine/Executive] Driver who uses any technology or service that is not licensed with the [regulatory body] is subject to a civil penalty in the amount of [_____] for his or her first offense, [_____] for his or her second offense and a temporary suspension of his or her license in addition to a civil penalty of [_____] for his third offense.


a. All [Dispatch Businesses or Limousine Bases] and such other entities otherwise required to obtain a [Dispatch License or Limousine Base License] must file with the [regulatory body] written policies, which indicate the following:

ii. Detail of the primary means of communicating a Dispatch;

iii. Detail of the secondary means of communication in the event the primary method is unavailable;

iv. All Third-Party Agreements in connection with providing Dispatch services;

v. Standard time elapsed between service request from passenger and passenger pick-up;

vi. Protocol for Dispatching wheelchair accessible vehicles;

vii. A policy and procedure to ensure its drivers are not using unlicensed technology for Dispatching;

viii. Protocol for passenger information storage, including at a minimum the storage of any of the following information:
1. any personal data (name, sex, age, race, etc.)
2. any financial information (credit card information, etc.)
3. passenger use (trip history, average fare, average gratuity, etc.)
4. passenger drop-off or pick-up location(s)
5. length of storage must be less than the maximum of [ex. 12 months].

ix. Protocol for Dispatch information storage, including at a minimum the storage of any of the following information:

1. Total number of requests for Dispatch
2. Total number of Dispatches, including the following information in connection therewith:
   a. Confirmation of Dispatch (code issued, etc.)
   b. Driver Dispatched
   c. Vehicle Dispatched
   d. Time of Dispatch
   e. Location of Dispatch
   f. Location of Drop-off
3. Length or data storage must be a minimum of [ex: 6 months].

b. All [Dispatch Businesses or Limousine Bases] shall continually maintain standards and equipment sufficient to:

   i. Control a radio frequency or public data network signal of sufficient capacity and strength to transmit and receive real time communication throughout the [jurisdiction];
   ii. Dispatch [Limousine/Executive Sedan or Taxicabs] with current [applicable license];
   iii. provide Dispatching service to its affiliates and all [Dispatch Businesses or Limousine Bases] and its affiliates are individually and reciprocally responsible for ensuring the Dispatching equipment of both parties is activated and operating at all times when the [Limousine/Executive Sedan or Taxicab] is publically available to provide transportation services;
   iv. Maintain [24-hour, 7 day a week or as determined by the regulatory body] service telephone number which passengers may request Dispatch or call with any customer service needs;
1. The [Dispatch Business or Limousine Base] is responsible for training all persons who answer the [Dispatch Business’ or Limousine Base’s] service telephone with Dispatch safety training.

2. The [Dispatch Business or Limousine Base] shall be liable for all communications with passengers requesting service, including vicarious liability for any Dispatch pursuant to a Third-Party Agreement, but which shall not relieve any Third-Party of such liability.

c. All [Dispatch Businesses or Limousine Bases] are required to maintain the following information for drivers and vehicles it is affiliated with and/or Dispatches:

   i. Evidence of a valid [Driver’s License issued by the regulatory body],
   ii. Evidence of a valid Vehicle License issued by the [regulatory body],
   iii. Evidence of valid insurance as required by the [regulatory body].

d. All [Dispatch Businesses or Limousine Bases] must have a minimum of [___] of vehicles affiliated with the [Dispatch Business or Limousine Base] with a minimum of [___] of vehicles available for service on any day.

e. All [Dispatch Businesses or Limousine Bases] shall report violations of [name of applicable set of regulatory rules] communicated to it by Licensees.

f. No [Dispatch Businesses or Limousine Bases] shall charge a passenger or permit an affiliated driver itDispatches to charge any fee, cost, or expense in excess of the fare arranged in advance or on the Taximeter, as applicable in accordance with the regulations regarding the methods fares must be charged. This shall include any and all exchanges of incentives or gratuities not reflected on the Taximeter or any device which is the functional equivalent thereof or published with the [regulatory body], as applicable to [Limousine/Executive Sedan or Taxicab] service.

g. No [Dispatch Business or Limousine Base] shall require the passenger/customer to Indemnify the Dispatch Business or Limousine Base.

Section 4. Third-Party Communications.
a. Any Third-Party Agreements made by a [Dispatch Business or Limousine Base] to subcontract, provide or use the services of any third-party in connection with effectuating the Dispatch of its affiliated [Limousine/Executive Sedan or Taxicab] Drivers and/or [Limousine/Executive Sedan or Taxicab] must be filed with the [regulatory body], including all amendments, modifications and supplements thereto.

i. Any activity or action taken in connection with an unfiled Third-Party Agreement is subject to penalty in connection with unlicensed activity set forth in [section of regulations].

ii. All Licensees shall remain liable in all Third-Party Agreements and no Indemnification sought.

iii. No [Limousine/Executive Sedan or Taxicab] Driver may make, agree, consent, acknowledge or enter into any Third-Party Agreements without the express written consent of such [Limousine/Executive Sedan or Taxicab] Driver’s affiliated with said [Dispatch Business or Limousine Base].

b. All Third-Party Agreements must be made with appropriately licensed [Dispatch Business or Limousine Bases].

c. All Third-Party Agreements must disclose fees, fee sharing, fee splitting, gratuities and alike among the parties to the agreement, including any fees, costs or expenses passed along to [Limousine/Executive Sedan or Taxicab] Drivers.

**TAXIMETERS AND METERS**

a. Taxicabs:

   a. Each Taxicab may have only one Taximeter, which must be inspected and approved [annually or select time frame] by the [regulatory body] [with the annual Taxicab inspection, by “x” date, etc. - pick timeline].

   b. Taximeters must be activated with each Taxicab trip or any time a Taxicab Driver accepts a fare, unless the fare is predetermined in advance of the trip or is a flat fare to the airport or other common destination [as approved and determined by the regulatory body].

   c. Fare Calculation:

      i. Taximeters must register and combine fraction measures of distance and time in an accruing unit of fare. A unit of fare is either:
1. [One-fifth of a mile or regulatory body select distance] when the Taxicab is travelling more than [x] miles per hour, or

2. [One minute (60 seconds) or regulatory body to select distance] when the Taxicab is travelling less than [x] same number as above] miles per hour.

ii. Taximeters must compute fares in accordance with [section of regulation re: how to compute fares] of this Regulation [or name of set of rules contained in], and shall be consistent with the most recent version approved by the [regulatory body] of Handbook 44 published by the National Institute of Standards and Technology and the National Conference on Weights and Measures Publication 14 (collectively, “Handbook 44”).

d. Taximeters must be sealed consistent with the requirements found in Handbook 44 by the [regulatory body] with a [physical] seal.

   i. Taximeters must be installed [in accordance with (insert section of regulation) or by “hard-wire” into the Taxicab transmission or in such a manner that a “pulse” is supplied by either the Taxicab transmission, a [regulatory body] approved onboard computer module in the Taxicab or such other [regulatory body] approved means to register the distance] and such installation must not be tampered with such that the Taximeter calculates the fare in any method other than the approved method of fare calculation specified herein.

   ii. Any Taxicab Driver or Licensee that operates a Taxicab in which the Taximeter that is tampered with or a malfunction is not timely reported [as proscribed by the regulatory body] and Taximeter removed from service when it calculates fares in any method other than the approved method of fare calculation specified herein shall be liable for civil penalties determined by the [regulatory body].

e. [If printed taximeter receipts are required by the regulatory body,] Taximeters must be capable of producing a printed [and/or electronic] receipt detailing at a minimum:

   i. the time of the passenger pick-up and drop-off,
   ii. the Taxicab License Number,
   iii. the phone number to the [Limousine Base or Dispatch Business] the Taxicab is affiliated with,
   iv. the metered fare charged, including a breakout of tolls charged and/or gratuity paid, as applicable.
TAXICABS

Section 1.

a. Taxicab Minimum Requirements.
   a. Taxicabs must:
      i. be licensed as a Taxicab by the [regulatory body],
      ii. have a seating capacity of and carry no more than 7 passengers,
      iii. have three or more doors,
      iv. have one (1) Taximeter, which must be used every time the Taxicab is engaged and which shall be the only method of fare calculation unless the fare is predetermined in advance of the trip or is a flat fare to the airport or other common destination [as approved and determined by the regulatory body].

1. The Taxicab Licensee shall only charge the fare displayed on the Taximeter or such other approved in vehicle technology (such as a PIM or point-of-sale technology) calculated consistently with the method of fare calculation contained herein and it shall be unlawful for any Licensee to charge any fee, cost, expense or gratuity not displayed on the Taximeter.

2. All Taximeters must satisfy the requirements set forth herein in [applicable section].
   v. bear a medallion/permit/certificate of public convenience & necessity indicating such license, as applicable,
   vi. shall accept street hails from passengers in the street or a Dispatch from a valid Dispatch Business and all other Dispatches shall be prohibited
   vii. be affiliated with only one [Limousine Base or Dispatch Business], or
   viii. shall only accept street hails from passengers in the street and shall not accept any form of Prearrangement or Dispatch, including E-Hails, telephone or radio Dispatch]. [Note: use vii and viii or ix]

b. Taxicabs must not:
   i. be licensed as a Limousine/Executive Sedan,
   ii. be Dispatched by a Limousine Dispatch Business.

LIMOUSINE/EXECUTIVE SEDAN VEHICLES

Section 1.
a. Minimum Requirements.

a. Limousine/Executive Sedan must:

i. be licensed by the [regulatory body] as a Limousine or Executive Sedan,

ii. have a seating capacity of at least [7] passengers for Executive Sedans or [25] for Limousines,

iii. have three or more doors,

iv. only accept passengers on a Prearranged basis,

v. be affiliated with only one Limousine [Base or Dispatch Business],

vi. calculate fares on an hourly basis or Prearranged contract price disclosed to the passenger in advance of the trip,

vii. charge a minimum fare of $[ ] [to be set higher than average taxicab fare] or as otherwise set forth herein, and

viii. upon request by the [regulatory body or its enforcement agent], produce a passenger manifest created in advance of the trip detailing at a minimum:

   1. the date of Prearrangement,
   2. time of Prearrangement,
   3. method of Prearrangement, [i.e.: website, application, telephone]
   4. the date and time of the passenger pick-up,
   5. the location of the passenger pick-up,
   6. Limousine/Executive Sedan Driver responsible for the trip,
   7. Limousine/Executive Sedan used during the trip,
   8. the fare to be charged or method of calculation to be used, which must be consistent with any required posted fares (as applicable) or applicable law or [regulatory body] regulation.

b. Limousine/Executive Sedan must not:

i. calculate or charge fares based on time and distance or through the use of any device or instrument, including a Taximeter or Meter,

ii. be licensed as a Taxicab,

iii. be Dispatched by a Taxicab Dispatch Business.