

Agreement to Bail a Taxi

BAILOR: _____

AND

BAILEE: _____

DATED:

NOTE:

THIS AGREEMENT AND APPLICATION TO BAIL A TAXI HAS BEEN DRAWN UP BY THE SOLICITORS OF AERIAL CAPITAL GROUP LIMITED TO ASSIST BAILORS AND BAILEES.

THIS DOCUMENT IS A GUIDE ONLY.

IF AGREED BETWEEN THE PARTIES, YOU MAY ADD, CHANGE OR DELETE CLAUSES.

AERIAL CAPITAL GROUP LIMITED AND ITS SOLICITORS ACCEPT NO RESPONSIBILITY OR LIABILITY IN RELATION TO ANY PERSON'S USE OF THIS AGREEMENT.

ANY BAILOR OR BAILEE USES THIS AGREEMENT AT THEIR OWN RISK.

IT IS RECOMMENDED THAT YOU SEEK YOUR OWN LEGAL ADVICE BEFORE ENTERING INTO THIS AGREEMENT.

CONTENTS

PART A – DEFINITION AND INTERPRETATION	1
1. DEFINITIONS	1
2. INTERPRETATION	2
PART B – BAILMENT	3
3. BAILMENT	3
PART C – DEPOSIT, FEE & EXPENSES	4
4. DEPOSIT	4
5. FEE & EXPENSES	5
PART D – OBLIGATIONS, RIGHTS & RESTRICTIONS OF BAILEE	5
6. OBLIGATIONS OF BAILEE	5
7. RIGHTS OF BAILEE	7
8. RESTRICTIONS OF BAILEE	7
PART E – OBLIGATIONS AND RIGHTS OF BAILOR	7
9. OBLIGATIONS OF BAILEE	7
10. RIGHTS OF BAILEE	8
PART F – WARRANTIES AND INDEMNITIES	8
11. BAILEE’S WARRANTIES AND INDEMNITIES	8
12. BAILOR’S WARRANTIES AND INDEMNITIES	8
PART G – AERIAL’S COMMUNICATIONS NETWORK AND CABCHARGE ARRANGEMENT	9
13. AERIAL’S COMMUNICATIONS NETWORK AND CABCHARGE ARRANGEMENT	9
PART H – ACCIDENTS AND INSURANCE	9
14. ACCIDENTS	9
15. INSURANCE	10
PART I – DISPUTES AND TERMINATION	11
16. RESOLUTION OF DISPUTES	11
17. TERMINATION	12
PART J – AERIAL’S MUTUAL AID SCHEME	12
18. AERIALS MUTUAL AID SCHEME	12
PART K – GENERAL PROVISIONS	13
19. RELATIONSHIP	13
20. CONFIDENTIALITY	14
21. NO WAIVER	14
22. COSTS	15
23. NOTICES	15
24. JURISDICTION	16
25. ASSURANCES	16
26. WHOLE AGREEMENT	16
27. COUNTERPARTS	16
28. ASSIGNMENT	17
29. NO MERGER	17
30. SEVERABILITY	17
SCHEDULE 1 - PARTICULARS	18
SCHEDULE 2 – SHIFT RECORD FORM	20
SCHEDULE 3 – APPLICATION TO BAIL A TAXI	21

Agreement to Bail a Taxi

PARTIES

BAILOR AS SPECIFIED IN ITEM 1 OF SCHEDULE 1 (“Bailor”)

AND

BAILEE AS SPECIFIED IN ITEM 2 OF SCHEDULE 1 (“Bailee”)

DESCRIPTION

This Agreement sets out the terms on which the Bailor grants the Bailee possession and use of the Taxi.

OPERATIVE CLAUSES

PART A – DEFINITION AND INTERPRETATION

1. Definitions

1.1 The following words have these meanings in this Agreement unless the contrary intention appears:

Act means the *Road Transport (Public Passenger Services) Act 2001 (Act)*.

Accident means any event in which:

- (a) the Taxi is damaged by any means;
- (b) the Taxi (or any part of its) is damaged, stolen or lost;
- (c) the Taxi is involved in a collision resulting in damage to another vehicle, property or injury to any person; or
- (d) a person suffers injury when in the Taxi or when entering, leaving or accessing any part of the Taxi.

Aerial means Aerial Capital Group Limited ACN 116 825 248 trading as Canberra Cabs.

Application means the Bailee’s completed and executed application to bail a taxi from the Bailor attached at Schedule 3.

Agreement means this Agreement and any schedules and annexures to the Agreement, as amended or substituted from time to time.

Australian Capital Territory means the body politic established by Section 7 of the *Australian Capital Territory (Self Government) Act 1988 (Cth)*, except where used in a geographical sense.

Authorised Driver means a person authorized by the Bailor to use the Taxi on the Bailee’s behalf as specified under sub-clause 3.3.

Bailee means the person or entity specified as the bailee at Item 2 of Schedule 1.

Bailor means the person or entity specified as the bailor at Item 1 of Schedule 1.

Business Day means a day except a Saturday or Sunday or other public holiday in the Australian Capital Territory.

Commencement Date means the date specified at Item 3 of Schedule 1.

Deposit means the sum specified in Item 4 of Schedule 1.

Fare means the gazetted range of fares which may be lawfully charged in the Australian Capital Territory from time to time for the hire of a taxi.

GST has the same meaning as in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Hiring Fee means the fee specified in Item 5 of Schedule 1.

Party means a person or entity who executes this Agreement.

Parties mean all the persons or entities who execute this Agreement.

Shift means each of the Shifts.

Shifts means the days and hours specified in Item 6 of Schedule 1 or any other times agreed between the Parties in writing.

Shift Record means the form specified in Schedule 2.

Taxi means the taxi specified in Item 7 of Schedule 1, which includes:

- (a) the motor vehicle;
- (b) the taxi plate;
- (c) the computerized radio system;
- (d) the meter;
- (e) the security equipment;
- (f) the fittings and accessories; and
- (g) the tools and equipment located in the taxi.

Taxi Drivers Licence means an Australian drivers licence which permits the person to drive motor vehicles in the Australian Capital Territory for the carriage of passengers for hire or reward.

Taxi Licence means the licence specified in Item 8 of Schedule 1, held by the Bailor to operate the Taxi under the Act.

Term means the term specified in Item 9 of Schedule 1.

2. Interpretation

2.1 In this Agreement unless the contrary intention appears:

- (a) a reference to this Agreement or any instrument includes any variation or replacement of any of them;
- (b) a reference to a person includes a body corporate, joint venture, association, government body, firm and any other entity;

- (c) a reference to legislation includes any amendments to it, any legislation substituted for it, and any subordinate legislation made under it;
- (d) the singular includes the plural and the plural includes the singular;
- (e) words of one gender include any gender;
- (f) headings do not affect the interpretation of this Agreement;
- (g) reference to a Party includes that Party's personal representatives, successors and permitted assigns;
- (h) reference to a thing (including a right) includes a part of that thing;
- (i) if a Party comprises of two or more persons:
 - (i) reference to a Party means each of the persons individually and any two or more of them jointly;
 - (ii) a promise by that Party binds each of them individually and all of them jointly;
 - (iii) a right given to that Party is given to each of them individually; and
 - (iv) a representative, warranty or undertaking by that Party is made by each of them individually;
- (j) a provision must not be construed against a Party only because that Party prepared it;
- (k) a provision must be read down to the extent necessary to be valid and if it cannot be read down to that extent, it must be severed;
- (l) if a thing is to be done on a day which is not a Business Day, it must be done on the Business Day before that day;
- (m) another grammatical form of a defined expression has a corresponding meaning;
- (n) the word include is used without any limitation;
- (o) the rights, duties and remedies in this Agreement operate to the extent that they are not excluded by law;
- (p) examples are descriptive only and not exhaustive; and
- (q) a word or phrase defined in the *Corporations Act 2001* (Cth) and the GST Act has the meaning given by the *Corporations Act 2001* (Cth) and GST Act, respectively, as at the date of this Agreement.

PART B – BAILMENT

3. Bailment

3.1 Subject to sub-clause 3.2, for the Term, the Bailor grants the Bailee:

- (a) exclusive use;
- (b) possession;
- (c) management; and

(d) control,
of the Taxi during the Shifts.

3.2 Notwithstanding sub-clause 3.1, the Bailor may, at any time, reasonably keep the Taxi for:

- (a) repairs;
- (b) inspection; or
- (c) maintenance.

3.3 The Bailor may, in writing, authorize a person to use the Taxi on the Bailee's behalf.

No Ownership or Proprietary Rights

3.4 The Bailor does not grant the Bailee any:

- (a) ownership; or
 - (b) proprietary interest,
- in the Taxi.

PART C – DEPOSIT, FEE & EXPENSES

4. Deposit

Deposit Amount

4.1 The Bailee must, at the Commencement Date, lodge the Deposit with the Bailor by way of security of the Bailee's obligations under this Agreement.

4.2 The Bailor may increase the Deposit as reasonably required from time to time.

Use of the Deposit by Bailor

4.3 The Bailor may retain the Deposit or appropriate monies from it in whole or in part, in the following circumstances:

- (a) for or towards the costs of replacing or repairing the Taxi which may be lost, destroyed or damaged by the Bailee or their Authorised Driver;
- (b) in settlement or account of any money owing by the Bailee under this Agreement; and
- (c) in settlement or on account of any money paid by the Bailor on behalf of the Bailee with the written consent of the Bailee.

Records

4.4 The Bailor must:

- (a) record all amounts (if any) appropriated by the Bailor from the Deposit; and
- (b) issue a receipt to the Bailee for any amount appropriated, including details of:
 - (i) the date of appropriation;
 - (ii) the amount appropriated; and

- (iii) the reason for the appropriation.

Top Up of Deposit

- 4.5 The Bailee must top up the Deposit to the amount specified in Item 4 of Schedule 1, within 7 days of receiving a receipt of an appropriation of the Deposit by the Bailor in accordance with sub-clause 4.4(b).

Return of Deposit

- 4.6 The Bailor must, within 7 days of termination or expiry of this Agreement:
- (a) pay the Bailee the full amount of the Deposit remaining after any appropriation made in accordance with this Agreement; and
 - (b) provide the Bailee with any receipts required under sub-clause 4.4(b).

5. Fee & Expenses

Hiring Fee

- 5.1 The Bailee must pay to the Bailor, in cash, the Hiring Fee at the end of every Shift or any other time agreed between the Parties.

Receipt

- 5.2 The Bailor must give the Bailee:
- (a) a receipt upon receiving the cash under sub-clause 5.1; and
 - (b) if GST applies, a Tax Invoice, within 7 days of the end of the month, which covers all payments received by the Bailor from the Bailee for that month.

Expenses

- 5.3 The Bailee must pay any:
- (a) fuel costs;
 - (b) cleaning costs;
 - (c) road tolls; and
 - (d) air port tolls (if any),
- arising out of the Bailee's use of the Taxi.

PART D – OBLIGATIONS, RIGHTS & RESTRICTIONS OF BAILEE

6. Obligations of Bailee

Use of Taxi

- 6.1 The Bailee must use or ensure the Taxi is used (including by their Authorised Driver):
- (a) at places permitted by law for the transportation of fare paying passengers and baggage;
 - (b) in a safe and responsible manner so there is no undue wear and tear on the Taxi;

- (c) for the purpose of carrying fare paying passengers and any other purpose reasonably incidental to that purpose;
- (d) in accordance with the terms and conditions of the Taxi Licence;
- (e) in accordance with the Act; and
- (f) as required by law.

6.2 The Bailee must or must ensure that their Authorised Driver:

- (a) at the end of each Shift, return the Taxi to the Bailor at the location specified by the Bailor;
- (b) maintain the Taxi in a neat, clean and tidy condition;
- (c) exercise proper care and control over the Taxi;
- (d) secure and lock the Taxi at any time the Taxi is unattended;
- (e) comply with the Act in relation to the operation and driving of taxis and the transportation of fare paying passengers and luggage; and
- (f) operate the Taxi as required by law.

Taxi Drivers Licence

6.3 The Bailee or any Authorised Driver using or driving the Taxi must hold a valid Taxi Drivers Licence at all times when operating the Taxi.

6.4 The Bailee must, within 2 days of the Bailor's request, provide to the Bailor, the original Taxi Drivers Licence of:

- (a) the Bailee; and
- (b) any Authorised Driver,

for inspection.

Shift Record

6.5 At the end of each Shift, the Bailee must provide a Shift Record to the Bailor for that Shift.

Fueling

6.6 The Bailee must, as reasonably possible, fuel and service the Taxi at the locations specified by the Bailor.

Repairs

6.7 The Bailee must at the end of each Shift notify the Bailor of any faults or defects in the Taxi requiring repairs or maintenance.

Fine or Penalties

6.8 The Bailee must pay any fines or penalties incurred by the Bailee or their Authorized Person in relation to their use of the Taxi.

6.9 The Bailee indemnifies the Bailor from any loss (including legal fees), arising out of the failure of the Bailee to pay any such fine or penalty under sub-clause 6.8.

7. Rights of Bailee

Use

7.1 The Bailee may, permit an Authorised Driver to use or operate the Taxi.

Encumbrances

7.2 The Bailee may, with the written consent of the Bailor, create a lien, charge or other encumbrance over the Taxi.

Minor Repairs

7.3 The Bailee may:

- (a) make minor repairs or replacements, up to the value of \$50, to the Taxi, arising from fair wear and tear; and
- (b) request the Bailor reimburse the Bailee for any minor repairs or replacements under sub-clause 7.3(a), at the time of providing the Shift Record and Hiring Fee.

8. Restrictions of Bailee

8.1 The Bailee must not and must ensure any third party does not:

- (a) drive the Taxi under the influence of any alcohol or drugs unless permitted by law;
- (b) smoke or allow passengers to smoke in the Taxi;
- (c) modify or remove any equipment or accessories fitted or installed in or to the Taxi; and
- (d) use the Taxi for private, family, or recreational purposes.

PART E – OBLIGATIONS AND RIGHTS OF BAILOR

9. Obligations of Bailor

Maintenance

9.1 The Bailor must:

- (a) regularly maintain and service the Taxi; and
- (b) repair and maintain the Taxi to the standard required under the Act.

Taxi

9.2 The Bailor must comply with any directions issued under the Act in relation to the Taxi.

Registration

9.3 The Bailor must pay all registration costs associated with the ownership and maintenance of the Taxi.

Payment for Minor Repairs

- 9.4 The Bailor must, at the time of receiving the Shift Record and Hiring Fee, reimburse the Bailee for any minor repairs and replacements made in accordance with sub-clause 7.3.

10. Rights of Bailor

Substitute Taxi

- 10.1 Notwithstanding anything in this Agreement, the Bailor may, in its absolute discretion, from time to time substitute the Taxi provided to the Bailee with a similar taxi (including motor vehicle, taxi plate, computerized radio system, meter, security equipment, fittings and accessories and tools and equipment) for any reason whatsoever.
- 10.2 The terms and conditions of this Agreement apply to any substitute taxi the Bailor provides to the Bailee under sub-clause 10.1.

Failure to attend Shift

- 10.3 If the Bailee fails to attend a Shift within 30 minutes of the commencement time of the Shift, the Bailor may, in the Bailor's absolute discretion, bail the use of the Taxi for that Shift to any third party.

PART F – WARRANTIES AND INDEMNITIES

11. Bailee's Warranties and Indemnities

Bailee's Warranties

- 11.1 The Bailee warrants that:
- (a) the Bailee or any Authorised Driver will, at all times while using the Taxi, hold a current valid Taxi Drivers Licence;
 - (b) the Bailee or their Authorised Driver are the only drivers of the Taxi under this Agreement;
 - (c) the Bailee or their Authorised Driver are permitted to operate the type of Taxi specified in the Taxi Licence;
 - (d) all information provided in this Agreement and the Application is true and correct; and
 - (e) the Bailee has not withheld any material information which, if known by the Bailor, may reasonably affect the Bailor's decision to enter this Agreement.

Bailee's Indemnities

- 11.2 The Bailee indemnifies, and forever keeps indemnified, the Bailor against all claims, damages, or losses arising out of or in relation to the Bailee's breach of this Agreement, including any of the Bailee's warranties under this Agreement.

12. Bailor's Warranties and Indemnities

Bailor's Warranties

- 12.1 The Bailor warrants that:
- (a) the Taxi is the type and class specified in the Taxi Licence;
 - (b) the Bailor is the owner of the Taxi; and

- (c) there is no legal impediment concerning the ownership of the Taxi preventing the Bailee from using the Taxi in accordance with this Agreement.

Bailor's Indemnities

12.2 The Bailor indemnifies, and forever keeps indemnified, the Bailee against all claims, damages, or losses arising out of or in relation to the Bailor's breach of this Agreement, including any of the Bailor's warranties under this Agreement.

PART G – AERIAL'S COMMUNICATIONS NETWORK AND CABCHARGE ARRANGEMENT

13. Aerial's Communications Network and Cabcharge Arrangement

Agreements with Aerial

- 13.1 The Bailee acknowledges that the Bailor has:
- (a) subscribed and connected the Taxi to Aerial's communication network;
 - (b) subscribed and connected to the cabcharge system of Aerial;
 - (c) licenced the follow equipment in the Taxi from Aerial:
 - (i) the computerized radio system;
 - (ii) the Cabcharge Fareway and eftpos unit
 - (iii) the security equipment;
 - (d) agreed to have the Taxi badged under Aerial; and
 - (e) agreed to be bound by Aerial's rules as set out in Aerial's By-Laws

Aerial's Rules

- 13.2 The Bailee must use and operate the Taxi in accordance with:
- (a) any rules of Aerial;
 - (b) any procedures for the use of the Taxi set by Aerial from time to time; and
 - (c) any instructions for the use of the Taxi issued by Aerial.

Uniform

13.3 The Bailee and any Authorised Driver must wear the uniform approved by Aerial when using the Taxi.

Cleaning

13.4 The Bailee must or must ensure their Authorised Driver maintains the Taxi in a neat, clean and tidy condition in accordance with Aerial's rules and accreditation standards.

PART H – ACCIDENTS AND INSURANCE

14. Accidents

14.1 If an Accident occurs, the Bailee must:

- (a) make no admission of liability to any party;
- (b) as soon as reasonable practicable verbally notify the Bailor of the circumstances of the Accident;
- (c) within 24 hours of the Accident, give the Bailor a written report of the Accident, including details of:
 - (i) any party involved in the Accident;
 - (ii) the other vehicles driver (including contact details) and vehicle registration (if applicable);
 - (iii) any witnesses;
 - (iv) any injury suffered by a party involved in the Accident; and
 - (v) any damage to or loss of property arising out of the Accident; and
- (d) give the Bailor:
 - (i) a copy of any statement made by the Bailee to the police concerning the Accident; and
 - (ii) any document received by the Bailee from or on behalf of any party making any claim against the Bailee or Bailor in respect of the Accident,

within 72 hours of receiving the document in sub-clause 14.1(d)

15. Insurance

Bailor to maintain Insurance

15.1 The Bailor must:

- (a) keep the Taxi insured, including to cover the interests of the Bailee and any Authorised Driver; and
- (b) pay all insurance premiums associated with the Taxi.

Insurance Exclusions

15.2 The Bailee must not and must ensure their Authorised Driver does not use and operate the Taxi in a manner which voids the Bailor's insurance over the Taxi.

Claim under Insurance

15.3 In the case:

- (a) of an Accident whilst the Taxi is in the possession or control of the Bailee or the Bailee's Authorised Driver; and
- (b) the excess payable under the insurance is less than the total costs and liabilities of the Accident,

the Bailor must make a claim under its insurance over the Taxi, unless otherwise agreed between the Parties in writing.

15.4 If the Bailor:

- (a) makes a claim under its insurance over the Taxi as a result of an Accident whilst the Taxi is in the possession or control of the Bailee or the Bailee's Authorised Driver; and
 - (b) is required to pay an excess by the insurer,
- the Bailee must, within 14 days of a written request from the Bailor:
- (c) if the Bailor has paid the excess – pay the Bailor the excess; or
 - (d) if the Bailor has not paid the excess – pay the excess to the Bailor's insurer.

Interest and Debt

15.5 If the Bailee does not pay the excess in accordance with sub-clause 15.4:

- (a) the excess or amount outstanding immediately becomes a debt due and payable by the Bailee to the Bailor;
- (b) interest accrues on that debt at the rate of 15% per annum compounded daily; and
- (c) the Bailee must pay all reasonable costs and expenses incurred by the Bailor in recovering the debt.

Application of Deposit

15.6 The Bailor may apply any moneys held as a Deposit towards the excess.

Indemnity by Bailee

15.7 The Bailee indemnifies, and forever keeps indemnified, the Bailor against all claims, damages, or losses arising out of or in relation to the Bailor being unable to make a claim under the Bailor's insurance over the Taxi due to the Bailee or the Bailee's Authorised Driver use or operation of the Taxi.

PART I – DISPUTES AND TERMINATION

16. Resolution of Disputes

- 16.1 If a Party is in dispute with another Party it will notify the other Party in writing of the nature and substance of the dispute.
- 16.2 The Parties must attempt to resolve any dispute notified under clause 16.1 through good faith negotiations between the Parties.
- 16.3 If the Parties cannot resolve a dispute under clause 16.2 within 21 days of the notice specified in clause 16.1, any Party may give another Party a notice requiring that the dispute be resolved by an arbitrator to be appointed by the Institute of Arbitrators & Mediators.
- 16.4 The arbitration must be conducted in accordance with the Institute of Arbitrators & Mediators' Rules for the conduct of Commercial Arbitrations and those rules are binding on the Parties.
- 16.5 The decision of the arbitrator binds the Parties.
- 16.6 Each Party in dispute must pay an equal share of the arbitrator's fees and expenses.
- 16.7 Subject to clause 16.8, no Party may file any initiating process with any Court in respect to the subject matter of any dispute:

- (a) until they have complied with clause 16.2; or
- (b) if a Party has elected to refer the dispute to arbitration under clause 16.3.

16.8 Clause 16.7 does not apply to applications for urgent injunctive, declaratory or other interlocutory or equitable relief before an appropriate court.

17. Termination

Termination by Bailor

17.1 The Bailor may immediately terminate this Agreement if:

- (a) the Bailee or any Authorised Driver's Driver's Licence is suspended, lapses or is cancelled;
- (b) the Bailee or any Authorised Driver fails to provide the Shift Record to the Bailor in accordance with this Agreement;
- (c) any of the information in the Application provided by the Bailee is incorrect;
- (d) the Bailee or any Authorised Driver causes the Bailor to breach its agreement with Aerial in relation to communication services or cabcharge services;
- (e) the Bailee breaches any term of this Agreement and fails to rectify the breach within 48 hours of receipt of a written notice from the Bailor requiring remedy of the breach;
- (f) the Bailee is an incorporated body – the Bailee is insolvent or under winding up or administration proceedings;
- (g) the Bailee is an individual – the Bailee becomes bankrupt or enters into a scheme or arrangement with creditors; or
- (h) the Bailee is unable to pay all of its debts when they become due.

Termination by the Bailee

17.2 The Bailee may immediately terminate this Agreement if:

- (a) the Bailor breaches any term of this Agreement and fails to rectify the breach within 14 days of receipt of a written notice from the Bailee requiring remedy of the breach; or
- (b) the Bailor is an incorporated body – the Bailor is insolvent or is the subject of any winding up or administration proceedings;
- (c) the Bailor is an individual – the Bailor becomes bankrupt or enters into a scheme or arrangement with creditors; or
- (d) the Bailor is unable to pay all of its debts when they become due.

PART J – AERIAL'S MUTUAL AID SCHEME

18. Aerials Mutual Aid Scheme

Application of this Clause

18.1 This clause 18 only applies where the Bailor maintains insurance for the Taxi with Aerial's Mutual Aid Scheme as specified in Item 10 of Schedule 1.

Definitions

- 18.2 In this clause, “**Drivers Excess**” means the excess payable on a claim under MAS as determined by MAS for each claim.
- 18.3 In this clause, “**MAS**” means Aerial’s Mutual Aid Scheme.
- 18.4 In this clause, “**MAS Exclusions**” means the list of exclusions issued by MAS from time to time as the basis for refusing to meet claims under the MAS.

MAS Exclusions

- 18.5 The Bailee must not and must ensure its Authorised Driver does not use and operate the Taxi in a manner which causes the MAS Exclusions to apply.

Claim under MAS

- 18.6 The Bailor must, for an Accident whilst the Taxi is in the possession or control of the Bailee or the Bailee’s Authorised Driver, if possible, make a claim under MAS if the Driver’s Excess is less than the total costs and liabilities of the Accident, unless otherwise agreed between the Parties.
- 18.7 If the Bailor:
- (a) makes a claim under MAS as a result of an Accident whilst the Taxi is in the possession or control of the Bailee or the Bailee’s Authorised Driver; and
 - (b) is required to pay the Driver’s Excess,
- the Bailee must, within 14 days from the Bailor’s written request:
- (c) if the Bailor has paid the Driver’s Excess – pay the Bailor the Driver’s Excess; or
 - (d) if the Bailor has not paid the Driver’s Excess – pay the Driver’s Excess to the repairing agent.

Interest and Debt

- 18.8 If the Bailee does not pay the Driver’s Excess in accordance with sub-clause 18.7:
- (d) the Driver’s Excess or amount outstanding immediately becomes a debt due and payable by the Bailee to the Bailor;
 - (e) interest accrues on that debt at the rate of 15% per annum compounded daily; and
 - (f) the Bailee must pay all reasonable costs and expenses incurred by the Bailor in recovering the debt.

Application of Deposit

- 18.9 The Bailor may apply any moneys held as a Deposit towards the Driver’s Excess.

Indemnity by Bailee

- 18.10 The Bailee indemnifies, and forever keeps indemnified, the Bailor against all claims, damages, or losses arising out of or in relation to the Bailor being unable to make a claim under MAS due to the Bailee or the Bailee’s Authorised Driver operation or used of the Taxi.

PART K – GENERAL PROVISIONS

19. Relationship

Relationship

19.1 Nothing in this Agreement creates, or can be construed to create any of the following relationships between the Bailor and Bailee, or the Bailor and the Bailee's Authorised Driver:

- (a) master and servant;
- (b) principal;
- (c) partnership;
- (d) employee; or
- (e) agent.

19.2 The Bailee must not and must ensure the Bailee's Authorised Driver does not hold themselves out as being any of the following relationships between the Bailor and Bailee, or the Bailor and the Bailee's Authorised Driver:

- (a) master and servant;
- (b) principal;
- (c) partnership;
- (d) employee; or
- (e) agent.

20. Confidentiality

20.1 Other than for operating the Taxi, the Parties must keep confidential:

- (a) the existence of this Agreement;
- (b) the terms of this Agreement;
- (c) any information obtained by a Party under or arising out of this Agreement of a confidential nature; and
- (d) any information indicated by a Party in writing as being of a confidential nature,
and must not disclose the information without the prior written approval of the other Parties except:
 - (e) to its professional advisers, bankers, financial advisers and financiers upon those persons undertaking to keep confidential any information so disclosed; or
 - (f) to comply with any applicable law or the requirements of any regulatory body (including any relevant stock exchange).

21. No waiver

Method of waiver

21.1 A Party waives a right under this Agreement only by giving written notice that it waives that right.

Limitation of waiver

21.2 A waiver is limited to the instance referred to in the writing (or if no instance is referred to in the writing, to past instances).

No deemed waiver

21.3 A power is not impaired or waived by:

- (a) a failure to exercise that power;
- (b) a delay in exercising that power;
- (c) a partial exercise of that power;
- (d) a previous exercise of that power; or
- (e) negotiations between the Parties.

22. Costs

22.1 Each Party will pay its own costs in relation to the preparation, negotiation, completion and execution of this Agreement.

22.2 The Bailee must pay, within the time required by statute, all stamp duty, taxes and charges payable in respect of this Agreement.

23. Notices

23.1 Notices must be in writing and in English, and may be given by an authorised representative of the sender.

23.2 Notice may be given to a person:

- (a) personally;
- (b) by leaving it at the person's address last notified;
- (c) by sending it by mail to the person's address last notified;
- (d) by sending it by facsimile to the person's facsimile number last notified; and
- (e) by sending it by email to the person's email address last notified.

23.3 Notice is deemed to be received by a person:

- (a) when left at the person's address;
- (b) if sent by mail, 3 Business Days after posting;
- (c) if sent by facsimile or email, at the time and on the day shown in the sender's transmission report, if it shows that the whole notice was sent to the person's facsimile number or email address last notified.

23.4 If the notice is deemed to be received on a day which is not a Business Day or after 5pm, it is deemed to be received at 9am on the next Business Day.

23.5 If two or more people comprise a Party, notice to one is effective notice to all.

24. Jurisdiction

24.1 This Agreement is governed by the laws of the Australian Capital Territory.

24.2 The Parties irrevocably submit to the exclusive jurisdiction of the courts of the Australian Capital Territory.

24.3 No Party may object to the jurisdiction of any of those courts on the ground that it is an inconvenient forum or that it does not have jurisdiction.

25. Assurances

25.1 Each Party must:

- (a) do everything necessary or desirable to give full effect to this Agreement, and
- (b) not do anything which might prevent full effect being given to this Agreement.

26. Whole Agreement

26.1 This Agreement and the Application embodies the whole agreement between the Parties relating to the subject matter of this Agreement and supersedes any and all oral and written negotiations and communications by or on behalf of any of them.

26.2 Subject to clause 26.3, each Party:

- (a) has relied on their own enquiries in deciding to sign this Agreement; and
- (b) has not relied on any warranties, representations, or statements of any kind in deciding to sign this Agreement.

26.3 Clause 26.2 does not apply to the warranties and representations expressly given under this Agreement.

26.4 No variation to this Agreement is valid unless in writing and signed by all Parties.

27. Counterparts

27.1 This Agreement may be executed in any number of counterparts and a counterpart may be a facsimile.

27.2 Together all counterparts make up one document.

27.3 If this Agreement is executed in counterparts, it takes effect when each Party has received the counterpart executed by the other Parties.

28. Assignment

28.1 A Party may only assign its rights or obligations under this Agreement with the written consent of the other Parties.

29. No merger

29.1 The terms of this Agreement capable of having effect after termination of this Agreement do not merge on termination and continue to have full effect.

30. Severability

30.1 If all or any part of any provision of this Agreement is invalid or unenforceable then:

- (a) that provision is severed from this Agreement to the extent necessary to remove the invalidity or illegality; and
- (b) the remaining provision of this Agreement remain valid and enforceable.

SCHEDULE 1 - PARTICULARS

Item 1 (cl 1.1): **Bailor**

Company Name
& ACN (if any): _____

Full Name or
Name of Officer: _____

Address: _____

DOB: _____

Ph No: _____

Item 2 (cl 1.1): **Bailee**

Company Name
& ACN (if any): _____

Full Name or
Name of Officer: _____

Address: _____

DOB: _____

Ph No: _____

Item 3 (cl 1.1): **Commencement Date** _____

Item 4 (cl 1.1): **Deposit** \$ _____

Item 5 (cl 1.1): **Hiring Fee** \$ _____ (exclusive of GST)
OR percentage of revenue _____

Item 6 (cl 1.1): **Shift** (days and hrs) _____

Item 7 (cl 1.1): **Taxi**

Taxi Licence No: _____

Vehicle Description: _____

Vehicle Registration No.: _____

Item 8 (cl 1.1): **Taxi Licence Details** _____

SCHEDULE 2 – SHIFT RECORD FORM

Taxi Licence Number: _____

Taxi registration number: _____

Name of person driving taxi: _____

Start of Shift: _____

End of Shift: _____

Starting Kilometres: _____

Ending Kilometres: _____

Minor damage to interior of taxi (if any): _____

Minor damage to exterior of taxi (if any): _____

Problems with the taxi or equipment (if any): _____

SCHEDULE 3 – APPLICATION TO BAIL A TAXI

(Attach original Application to Bail a Taxi)

EXECUTED AS AN AGREEMENT ON

DAY OF

BAILOR'S EXECUTION CLAUSES

EXECUTED by the Bailor
in accordance with section 127 of the
Corporations Act 2001 by:

Secretary/Director signature

Director signature

Print name of signatory

Print name of signatory

EXECUTED by the Bailor)
in the presence of:)
)
)

Signature of Witness

Print name of Bailor

Print name of Witness

BAILEE'S EXECUTION CLAUSES

EXECUTED by the Bailee
in accordance with section 127 of the
Corporations Act 2001 by:

Secretary/Director signature

Director signature

Print name of signatory

Print name of signatory

EXECUTED by the Bailee)
in the presence of:)
)
)

Signature of Witness

Print name of Bailee

Print name of Witness