

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Agreement, unless the contrary intention appears:

**"Agreement"** means the Taxi Bailment Agreement between myself the Driver and you the Operator which incorporates the General Terms and Conditions and Schedule A.

**"Bailment Fee"** means the fee set out in Item 6 of Schedule A.

**"Commencement Date"** means the date set out in Item 1 of Schedule A.

**"Contributions"** mean the contributions to costs described in clause 3.3 of these Terms and Conditions.

**"Driver"** means myself, the driver described in Schedule A, the bailee for the purposes of this Agreement.

**"End of Shift Report"** means the report referred to in clause 5.2 of these Terms and Conditions.

**"GST"** has the meaning in the *A New Tax System (Goods and Services Tax) Act 1999*.

**"Operator"** means you the person with authority to deal with the Taxi described in Schedule A. You are the bailor for the purposes of this Agreement.

**"Queensland Roads Legislation"** includes the Transport Operations (Road Use Management) Act 1995, Transport Operations (Road Use Management – Vehicle Registration) Regulation 2010, and Transport Operations (Road Use Management – Vehicle Standards and Safety) Regulation 2010.

**"Queensland Transport Legislation"** includes the Transport Operations (Passenger Transport) Act 1994, Transport Operations (Passenger Transport) Regulation 2018 and Transport Operations (Passenger Transport) Standard 2010.

**"Shift"** means each shift set out in Schedule A or such other shifts as we may agree from time to time.

**"Taxi"** means the taxi or taxis described in Schedule A.

**"Taxi Booking Company"** means any taxi service administration organisation with which the Taxi is affiliated.

**"Taxi Service Licence"** means a licence issued under the *Transport Operations (Passenger Transport) Act 1994*, to provide a taxi service in an area in a way that meets or exceeds specified performance levels.

**"Taxi Subsidy Scheme"** means the scheme defined in section 94 of the *Transport Operations (Passenger Transport) Regulation 2005*.

### **2. Interpretation**

In the interpretation of this Agreement, unless the context otherwise requires, references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes.

## **2. BAILMENT**

### **2. Agreement to Bail**

You agree to bail the Taxi to me on the basis set out in this Agreement.

### **2.2 Period of Bailment**

2.2.1 You will bail the Taxi to me for the Shift.

2.2.2 Except when you reasonably require the Taxi for repairs, inspection, or maintenance, I

shall have (without enjoying any proprietary interest in the Taxi) exclusive use and possession of the Taxi for the entire duration of each Shift. You will provide reasonable notice of requiring the vehicle for such purposes.

### **2.3 Cancellation of a Shift by the Driver**

2.3.1 I may cancel a Shift or part of a Shift upon giving reasonable notice to you.

2.3.2 In the event of a cancellation of a Shift or part of a Shift under clause 2.3.1, my obligations at the end of a Shift set out in clause 5.2 will apply, to the maximum extent possible.

## **3. BAILMENT FEE AND CONTRIBUTIONS**

3.1 I must pay the Bailment Fee and Contributions to you in accordance with this clause.

3.2 The Bailment Fee is calculated in accordance with Item 6 of Schedule A, If the Bailment Fee differs depending on the shift or shifts, only one option may apply in any Shift.

3.3 In addition to the Bailment Fee set out in clause 3.2, where agreed, I must pay to you contributions for:

- (a) taxi vehicle insurance, as specified in Item 8 of Schedule A; and
- (b) personal injury insurance and public liability insurance, as specified in Item 9 of Schedule A.

3.4 I must pay the Bailment Fee and Contributions at such time, place or intervals in accordance with Item 7 of Schedule A, provided that only one payment of Bailment Fee and Contributions will be due and payable in any span of 24 consecutive hours.

3.5 Each Bailment Fee and Contributions payment must be accompanied by an End of Shift Report completed by me, and I may keep a copy of the End of Shift Report.

3.6 Notwithstanding the provisions of this clause, the Bailment Fee and Contributions are not payable for a Shift or part of a Shift that the Taxi is unable to be used for the provision of a taxi service for any reason not arising from any fault on the part of myself.

3.7 Where a cancellation occurs during a Shift, I am liable to pay you the Bailment Fee and Contributions that would have been payable for the whole Shift, if it had been completed.

## **4. THE OPERATOR'S OBLIGATIONS**

4.1 You agree, at your expense, to:

- (a) Maintain the currency of your Operator Accreditation and ownership, lease or management control of the Taxi Licence;
- (b) pay for fuel (to the extent specified in Schedule A) and all necessary oil, lubricants and replacement parts for the Taxi;
- (c) carry out all necessary repairs and maintenance to the Taxi ;
- (d) subject to clause 7 of these Terms and Conditions, take out and keep current the insurances set out in that clause;
- (e) keep the Taxi registered as required under Queensland Roads Legislation;
- (f) maintain the Taxi in a proper roadworthy condition so as to comply with the requirements of Queensland Roads Legislation and all applicable legislation;

- (g) supply all documentation and equipment necessary to comply with this Agreement, the Taxi Service Licence, Queensland Transport Legislation and any other legislation applicable to taxis; and
- (h) provide, if applicable, the equipment described in Schedule A.

## **5. THE DRIVER'S OBLIGATIONS**

### **5.1 My Obligations During a Shift**

- 5.1.1 At the commencement of each Shift, I will examine the Taxi and satisfy myself as to its suitability and fitness for the purpose of the provision of a taxi service.
- 5.1.2 I agree to notify you or your authorised representative of any defect or damage to the Taxi of which I become aware as soon as is reasonably practicable and in any event to include details of same in the End of Shift Report.
- 5.1.3 I agree, for the duration of each Shift:
  - (a) to exercise proper care and control of the Taxi;
  - (b) not to part with possession of the Taxi except to take meal breaks and rest pauses;
  - (c) not to allow any person, other than yourself or any person authorised by you, to drive the Taxi or to modify or remove any equipment fitted to or installed in the Taxi;
  - (d) to clean any soiling caused by passengers in the Taxi;
  - (e) to comply with the requirements of any Taxi Subsidy Scheme administered by Queensland Transport;
  - (f) to comply with the terms and conditions of the Taxi Service Licence as if such terms and conditions were contained in this Agreement, and acknowledge that I have received read and understood the terms and conditions of that licence before entering into this Agreement;
  - (g) to ensure my driver's licence, driver's authorisation and appropriate endorsement from the Taxi Booking Company is current; and
  - (h) to provide the equipment specified in Schedule A (if any).

### **5.2 My Obligations at the End of a Shift**

- 1. I agree to complete and lodge with you at the end of each Shift a report ("End of Shift Report") stating:
  - (a) any change in the operational variables recorded by the taximeter;
  - (b) any damage to the interior or exterior of the Taxi;
  - (c) any apparent malfunctioning of the Taxi or the equipment in it;
  - (d) any further particulars concerning the Taxi reasonably required by you; and
  - (e) for the purposes of fatigue management, details of any fatigue management incidents or excesses to industry-relevant fatigue management guidelines.
- 5.2.2 I agree, at the end of each Shift, to return the Taxi to you:
  - (a) at a place agreed between us not later than the end of Shift time agreed between us; and
  - (b) with approximately the same level of fuel as that at the start of a Shift.

### **3. My Chain of Responsibility Obligations**

- 3.1. I undertake that I have and will do all things necessary to comply with Queensland Transport Legislation chain of responsibility requirements, including, but not limited to:
  - (a) completing and lodging a written record of all as fatigue management matters described in 5.2.1(e) above;

- (b) not commencing any shift impaired by fatigue or any other condition that renders me unfit state to safely control a taxi;
- (c) taking adequate breaks from driving to self-regulate my fatigue and immediately ceasing to drive at any time impaired by fatigue or any other condition that renders me unfit to safely control a taxi;
- (a) attending and completing such training as is reasonably necessary to discharge my responsibilities and obligations when driving and in control of a taxi.

3.2. I understand my compliance with the relevant chain of responsibility legislation is required as a matter of law and that you are not imposing any arbitrary requirements on me nor are you seeking to exercise control beyond the scope of our bailee and bailor relationship.

## **6. MUTUAL OBLIGATIONS**

- 6.1 We agree to:
- (a) comply with the provisions of Queensland Transport Legislation, its regulations and standards and all other legislation relating to taxis, the provision of a taxi service, motor vehicles and motor traffic.
  - (b) comply with all rules and by-laws of the Taxi Booking Company.
  - (c) to comply with safety requirements in relevant legislation, including the *Workplace Health and Safety Act 1995*, applicable to the operation, management and control of the Taxi.
  - (d) act in a reasonable way and render reasonable assistance to each other upon reasonable request, in order to give effect to this Agreement.
  - (e) not do anything or refrain from doing anything which could adversely affect the ability of the Taxi Booking Company to comply with its obligations to the Department of Transport and Main Roads.

## **7. INSURANCE**

### **1. Taxi Vehicle Insurance**

- 7.1.1 You must display your Certificate of Insurance.
- 7.1.2 You must take out and keep current for the duration of this Agreement a comprehensive insurance or third party property policy for the Taxi with a reputable insurer, or a motor vehicle protection policy for the Taxi with a Taxi Council of Queensland approved discretionary trust, for the term of this Agreement.
- 7.1.2 Unless otherwise agreed, you are responsible for, and, if required by the insurer, will pay any excess (except for any age excess) on an insurance/discretionary trust policy referred to in this clause.
- 7.1.3 I am responsible for, and, if required by you, will pay any age excess on an insurance/discretionary trust policy referred to in this clause.

### **7.2 Personal Injury Insurance**

You must take out and keep current for the duration of this Agreement a personal injury insurance policy with a reputable insurer to cover me for loss of earnings (except if I am 81 years of age or older). The personal injury insurance must provide a level of cover equal to or greater than the following –

<b>Benefits</b>	<b>Drivers 70 years of age or under</b>	<b>Drivers 71 to 75 years of age</b>	<b>Drivers 76 to 80 years of age</b>
Death or Total Disablement	\$250,000	\$20,000	\$20,000 (only whilst on shift)
Weekly benefits – Injury Total Disablement	Lesser of 85% of income up to \$150 per Shift or \$750 per week		
Accrued benefits period	156 weeks	52 weeks	26 weeks
Funeral expenses	\$10,000		
Excess period	2 days	5 days	7 days

**3. Public Liability Insurance**

You must take out and keep current for the duration of this Agreement a public liability insurance policy with a reputable insurer to cover me for my legal liability for negligence causing personal injury and/or property damage to third parties occurring when the Taxi is not moving or when using the Taxis' hoists and/or lifting equipment (where fitted). The public liability insurance will provide Compulsory Third Party (CTP) gap liability protection equal to or greater than the following –

*Any one occurrence = \$20,000,000*

**4. Payment of Insurance**

I will pay my agreed share of insurance/discretionary trust costs under clauses 7.1 and 7.2, in accordance with clause 3.3 of this Agreement.

**5. Evidence and Information Regarding Insurance Policies**

You will, on request from myself, provide me with certificates of currency of the taxi vehicle insurance/discretionary trust policy, the personal injury insurance policy, and the public liability insurance policy referred to in clauses 7.1, 7.2 and 7.3, and any information reasonably required with respect to them.

**6. Driver's Indemnity**

Provided I have complied with clause 3.3 of this Agreement, you will indemnify me for any loss or damage suffered by your failure to take out and keep current the insurances referred to in this clause.

**8. TAXI**

**8.1 Control of Taxi**

Subject to the provisions of this Agreement, Queensland Transport Legislation and any other legislation applicable to taxis, I:

- (a) will have control of the Taxi including the running and management of it during the Shift;
- (b) will not be subject to any instructions or directions by yourself except those requiring observance of the conditions of this Agreement and the Taxi Service Licence;
- (c) must use the Taxi for the carriage of passengers and luggage, and other uses permitted under legislation applicable to taxis; and

(d) must comply with a request by you under clause 11.5 for the repossession of the Taxi.

**2. Alternate Taxi**

Notwithstanding any other provisions of this Agreement, you may supply to me as a replacement for the Taxi, another taxi ("Alternate Taxi"). The Alternate Taxi will be accepted by me as if it was the Taxi and the terms and conditions of this Agreement will apply to the Alternate Taxi as if it was the Taxi.

**9. INCIDENTS, ACCIDENTS AND INDEMNITIES**

9.1 In clause 9:

**"Incident"** means any event occurring during a Shift or when the Taxi is in my possession, in which:

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

9.2 If an Incident occurs, I will:

- (a) make no admission of liability to any party;
- (b) as soon as practicable, verbally notify you of the circumstances of the Incident;
- (c) as soon as practicable, give you a written report of the Incident, including (if known) particulars of:
  - (i) any party involved in the Incident;
  - (ii) if the Incident involves a collision with another vehicle driven by a person other than the registered operator of the vehicle, the registered operator of the vehicle;
  - (iii) any witnesses;
  - (iv) any injury suffered by a party involved in the Incident; and
  - (v) any damage to or loss of property arising out of the Incident.
- (d) give to you within 48 hours after coming into my possession (or if the I am incapacitated as soon as possible) the following:
  - (i) a copy of any statement made by me to the police concerning the Incident; and
  - (ii) any document posted, delivered or served on me by or on behalf of any party making any claim against either of us.

9.3 In respect of any Incident to which the insurances set out in clauses 7.1, 7.2 and 7.3 refer; you shall be responsible for responding to all communications from any party making a claim against either of us.

9.4 You indemnify me in respect of liability for damage to the Taxi and property damage that the Taxi may cause arising out of the authorised use of the Taxi by me. This indemnity does not apply to the extent that the damage resulted from or was occasioned by my wilful misconduct, wilful act or omission, or wilful breach of this Agreement.

9.5 Subject to clause 9.4, each party ("First Party") indemnifies the other party ("Second Party") against all liabilities, losses, expenses and costs that the other party sustains or



incurs as a result of:

- (a) any material breach of this Agreement by the First Party; or
- (b) any negligent act or omission or any misconduct of the First Party.

## **10. WARRANTIES**

### **1. My Warranties**

I warrant that:

- (a) I am the holder of a current Queensland Driver's Licence, and a current Booked Hire/Taxi Driver's Authorisation issued under Queensland Transport Legislation, details of which are set out in Item 2 of Schedule A and am bound by the legislative requirements under this and all subordinate legislation.
- (b) I will be the sole and only driver of the Taxi under this Agreement.
- (c) the particulars given by me in this Agreement are correct and will be kept up-to-date in the event of any change authorised under this Agreement.
- (d) I have accurately disclosed, before entering into this Agreement, all information relevant to this Agreement, including:
  - (i) my driving history, including all serious accidents and incidents; and
  - (ii) credit information.
- (e) I will notify you if at any time my driver licence and/or driver authorisation is suspended, cancelled or disqualified.
- (f) I have not withheld any information, which if known by you, might have reasonably affected your decision to enter into this Agreement.

### **10.2 Your Warranties**

You warrant that:

- (a) you have authority to enter into this Agreement and to deal with the Taxi;
- (b) you own, lease or manage a Taxi Service Licence and hold an Operator Accreditation to provide a taxi service under Queensland Transport Legislation.
- (c) the Taxi complies with all requirements of Queensland Transport Legislation and all applicable additional conditions attached to the Taxi Service Licence.
- (d) the Taxi is the licensed vehicle specified in the Taxi Service Licence and Item 4 of the Schedule A to this Agreement.
- (e) the particulars given by you in this Agreement are correct and will be kept up-to-date in the event of any change authorised under this Agreement.
- (f) at the commencement of each Shift, the Taxi will be in good order and repair and of a standard required under Queensland Transport Legislation.

## **11. TERMINATION AND REPOSSESSION**

### **1. Termination**

This Agreement terminates on the earlier of the following:

- (a) termination by you under clause 11. 2 of this Agreement; or
- (b) termination by me under clause 11.3 of this Agreement.

### **2. Termination by You**

You may terminate this Agreement at the conclusion of a Shift for any reason by giving a written notice to myself.

### **3. Termination by Me**

I may terminate this Agreement at the conclusion of a Shift for any reason by giving you a written notice.

**4. Return of the Taxi on Termination**

- (a) If you terminate this Agreement under clause 11.2, I will on demand deliver the Taxi in good order and repair, at your expense, to you at the place agreed.
- (b) If I terminate this Agreement under clause 11.3, I will, at my expense, deliver the Taxi in good order and repair to you at the place agreed.

**11.5 Repossession**

You may repossess the Taxi immediately and without notice to me if:

- (a) You have reasonable grounds to suspect that I am using the Taxi for any purpose not authorised under this Agreement, or for an illegal or illicit purpose; or
- (b) I have defaulted in payment of any monies due under this Agreement; or performance of any material term of this Agreement.

**11.6 Costs and Expenses Payable on Repossession**

If you repossess the Taxi under clause 11.5 of this Agreement, I will pay you on demand all reasonable costs and expenses relating to the repossession and any other damages or compensation arising out of or relating to such repossession.

**12. DISPUTE RESOLUTION**

- 1. If a dispute arises between us under this Agreement, each of us must use our best efforts to resolve the dispute within 5 days. Before proceeding with any other course of action available under clause 12, the party claiming that a dispute has arisen must give written notice of the dispute to the other party.
- 12.2 If a dispute is not resolved after 20 days from the giving of notice under 12.1, either of us may refer the dispute to the Taxi Booking Company identified in Item 4 of Schedule A or the Taxi Council of Queensland for conciliation.
- 12.3 If a dispute is unable to be resolved by the conciliation process under 12.2, the parties will be entitled to pursue other remedies.

**13. NO AGENCY, EMPLOYMENT, PARTNERSHIP OR FRANCHISE**

- 1. This Agreement does not create a relationship of agency, employment, partnership or franchise between us.

**14. COSTS AND TAXES**

**1. Agreement Costs**

Each party must bear its own costs (including legal costs) of and incidental to the preparation, negotiation and signing of this Agreement.

**2. GST**

We both agree that any amounts payable to you under this Agreement are inclusive of any GST that may apply.



## **15. PRIVACY ACT ACKNOWLEDGEMENT CONSENT AND AUTHORITIES**

### **1. Acknowledgment and Consent by Myself**

By signing this Agreement, I acknowledge and consent that credit information may be given to a credit reporting agency. I understand that under section 18E(8)(c) of the *Privacy Act 1988 (Cth)*, you may give a credit reporting agency certain personal information about me, which I authorise you to do. The information which may be given to an agency is covered by section 18E(1) of the *Privacy Act 1988 (Cth)* and includes:

- (a) such permitted information about me which I allow to be identified;
- (b) the fact I have applied for you to charge a credit facility;
- (c) payments which become overdue more than 60 days for which collection action has commenced;
- (d) advice that payments are no longer overdue;
- (e) cheques drawn by me which have been dishonoured; and
- (f) in specific circumstances that in your opinion I have committed a serious infringement or that I have or have not discharged my obligations under this Agreement.

### **2. Authority for You to obtain credit and other information**

To enable you to assess my suitability and credibility as a driver and my operations, I authorise you:

- (a) to obtain from a credit reporting agency a credit report containing personal credit information about me;
- (b) to obtain from a business which provides information about commercial credit worthiness of persons a report containing information about my commercial activities or commercial credit worthiness;
- (c) to give to and/or obtain from any credit provider(s) named in a report held by a credit reporting agency information about my credit arrangements, including information about my credit worthiness, credit standing, credit history or credit capacity; and
- (d) to give to and/or obtain from any statutory authority, insurer and/or any taxi industry participant (including the Taxi Booking Company, other taxi booking companies, other operators or drivers or the Taxi Council of Queensland (Incorporated)) any relevant information about my business and driving record including any accidents and incidents and criminal records and any other information relevant to the bailment of the Taxi.

### **3. Access to personal information**

If the National Privacy Principles in the *Privacy Act 1988 (Cth)* apply to you, I may access my personal information held by you, by contacting you to that effect. I acknowledge that in certain circumstances allowed at law, you may refuse to provide such access.

#### **15.4 Personal information**

For the purposes of this clause 15, "personal information" means information or opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

## **16. PROPER LAW**

1. This Agreement is governed by and will be construed in accordance with the laws of the

State of Queensland.

## **17. GENERAL PROVISIONS**

### **1. Entire Agreement**

This Agreement:

- (a) constitutes the entire agreement between us as to its subject matter; and
- (b) in relation to that subject matter, supersedes any prior understanding or agreement between us and any prior condition, warranty, indemnity or representation imposed, given or made by either of us.

### **2. Variations**

We may agree in writing to amend the Items of Schedule A and any other clauses of this Agreement. Amendments to this Agreement will not be effective unless made in writing and signed by both of us.

### **3. Waiver**

The failure of either of us at any time to require performance of any obligation under this Agreement is not a waiver of that party's right:

- (a) to claim damages for breach of that obligation; and
- (b) at any other time to require performance of that or any other obligation under this Agreement unless written notice to that effect is given by that party to the other.

### **4. Counterparts**

This Agreement may be signed in any number of counterparts with the same effect as if the signature to each counterpart were on the same instrument.

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