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## MODEL REGULATIONS:

### SMARTPHONE APPLICATION TECHNOLOGY

### FOR TAXICABS & LIMOUSINES

*Issued*

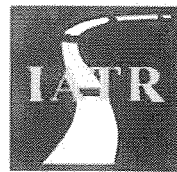
*September 23, 2013*

*St. Louis, Missouri*

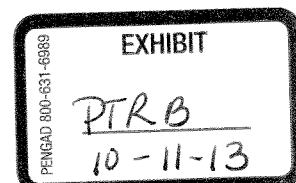
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## Mission Statement of the IATR Smartphone Apps Committee

### and Acknowledgements

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.

The IATR wishes to express its gratitude and appreciation to the members of the Smartphone Apps Committee for their diligence and dedication.

#### **Committee Members:**

Chair, Professor Matthew W. Daus, Esq./President, IATR

Marcy Cardona, Austin

Mark Cohen, Boston

Tom Drischler, Los Angeles

Tom Downey, Denver

Christiane Hayashi, San Francisco

Benoit Jugand, City of Montreal

Rosemary Krimbel, Chicago

Craig Leisy, Seattle

Ron Linton, Washington, DC

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Richard Mucha, Toronto

James Ney, Philadelphia

Tina Paez, Houston

John Scott, San Diego

John Barton, National Institute for Standards & Technology

Don Onwiler, National Conference on Weights & Measures

## Background

In response to the influx of smartphone applications (“apps”) in ground transportation, IATR President Matthew W. Daus empanelled a Smartphone Apps Committee (the “Apps Committee”) in the summer of 2012 to research and examine the regulatory issues related to apps and draft proposed Model Regulations. In light of this review, the proposed regulations endeavored to present a balanced and uniform standard adaptable to most, if not all, jurisdictions, with both the taxicab and limousine/executive sedan sectors each having a defined role in the for-hire industry, substantially reducing or eliminating the gray areas, loopholes, and unfair competition to enhance the safety, communitywide availability and quality of service.

The proposed regulations were the subject of an unprecedented international public hearing held at the IATR 25<sup>th</sup> Anniversary Conference in November 2012. In the subsequent comment period, regulators, transportation industry, technology and other stakeholders have provided suggestions and feedback. Moreover, in the interim, President Daus has presented testimony or submitted comments in California, Colorado, Maryland, Texas and New York City in response to proceedings in those locales involving proposed regulatory changes involving apps in ground transportation. Based on the ongoing work of the Apps Committee, the proposed regulations have been revised and updated and are now published in final form.

The IATR Smartphone Apps Committee is promulgating these model regulations to clarify or expand the definitions and regulations of for-hire transportation services in order to enhance and modernize such regulations. The 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<sup>1</sup> 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

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<sup>1</sup> The term “mobile application” is defined and used in the model regulations since these applications are available for smartphones, tablets and other mobile devices.

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 definitions and model regulations set forth below attempt to answer each of the forgoing questions with the following general responses: (a) The use of a smartphone application 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 “Demand Response Booking,” which shall only be used for the dispatching of a taxicab; (b) Although there may be some different approaches by regulators, smartphone applications **will be** obligated to obtain dispatch licenses if such applications do not provide the transportation themselves, and they must contract with licensed third-parties to provide transportation services; (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.

At the 2013 IATR conference in St. Louis, Missouri in September 2013, there will be workshops offered at the conference to coincide with the release of the final version of the model regulations. The workshops will be led by regulators for fellow regulators and other stakeholders to explain and discuss the model regulations and address regulators’ implementation plans to bring order to the app universe.

## 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.<sup>2</sup> In addition, we have sought and received comments from regulators and industry stakeholders at the international public hearing held November 16, 2012 at the IATR 25<sup>th</sup> Anniversary Conference in Washington, DC. Due to the interest from stakeholders, the period to submit comments was extended twice from the original deadline of December 15, 2012 to the ultimate deadline of March 31, 2013. In light of our review and the comments, our model regulations will endeavor to present a balanced and uniform standard adaptable to most, if not all, jurisdictions. It is our belief that the proposed regulations embody our understanding of best practices in defining various services and business licensing distinctions in order 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 competition, while encouraging greater competition with the advent of legally compliant smartphone and other technology. We believe the distinctions set forth below are vital elements to a socially responsive 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 regulatory apparatus – is that they create consumer safety concerns and public service gaps and deficiencies, as well as 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 protect consumers by creating regulations that appropriately reflect and incorporate the use of such technology. Currently, there are smartphone applications being used in the transportation industry operating in the “gray areas” of the regulatory apparatus, with limited or no regulatory oversight, depending on the

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<sup>2</sup> A summary setting forth the regulations in each jurisdiction reviewed will be separately available, upon request.

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 public safety concerns, providing for a fair communitywide service.

It is our intention to incorporate new definitions and new regulations to bring non-compliant smartphone applications into the realm of legality and incorporate the use of technology into the current regulations to create a fair and even playing field. These model regulations are not intended 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 regulatory concerns of smartphone applications and bring legal clarity to any potential gray areas in the regulation of each for-hire transportation sector. As such, the model regulations set forth below do not 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, and address the local needs of the regulatory jurisdiction and the existing paradigm.

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 a premium service, the proposed regulations define a limousine and executive sedan as a luxury service that will assess fares exclusively based on time hired or a prearranged amount with the payor or customer in advance of providing such 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 assesses fares through the use of an approved taximeter – thereby requiring compliance with the most recent version of Handbook 44 issued by the National Institute of Standards and Technology (“NIST”). Also, such smartphone applications should be traceable to an active National Type Evaluation program (“NTEP”) Certificate of Conformance issued by the National Conference on Weights and Measures (“NCWM”) consistent with Publication 14 published by the NCWM<sup>3</sup> (collectively “**Handbook**

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<sup>3</sup> NTEP evaluations are performed according to the policies, checklist, and test procedures found in NCWM Publication 14. Publication 14 is based on the specifications, tolerances, and other requirements found in NIST

44”), depending on the jurisdiction.<sup>4</sup> NIST has formed a U.S. National Working Group (“USNWC”) to examine these issues, and has invited the IATR to take part in its work, and the IATR members serve on the working group representing the interests of regulators. 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 such taxicab service and limousine/executive sedan service, venturing beyond what is currently evidenced in many jurisdictions, thereby substantially reducing or eliminating any loopholes.

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Handbook 44. NTEP evaluations are therefore based on Handbook 44, however, the type evaluation process and a field examination performed by local authorities will most likely not be identical. Type evaluations will most often include tests that would not be practical to perform in a "field" environment where conditions are not completely controlled.

<sup>4</sup> It should be noted that neither NIST nor NCWM are regulatory bodies. As such, they do not enforce or declare any type of device or practice to be legal or illegal and it is both the responsibility and obligation of the applicable taxicab regulatory authority to adopt the standards developed by and through NCWM and NIST. However, to date, smartphones are not authorized under the most recent version of Handbook 44 or Publication 14 as applicable measuring devices. Because most, if not all, jurisdictions refer the most recent publication of Handbook 44 or portions thereof as their standard for measuring devices, smartphones are currently illegal.

## MODEL REGULATIONS

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

### Definitions

- *Broker*: may mean either a Third Party or a Dispatch Business, as determined by the local jurisdiction.
- *Cruising*: means the driving of a for-hire vehicle on the streets, alleys or public places of vehicle travel within [insert jurisdiction name] in search of or soliciting prospective passengers for hire. Cruising shall be prohibited by Limousines.
- *Demand Response Booking*: (which is also known as “on-demand”) indicates an immediate dispatch of a Taxicab whereby only the passenger’s location is known and no destination or price quote is provided. No Limousine shall accept a Demand Response Booking.
- *Dispatch (Dispatching, Dispatched)*: any electronic, radio or telephonic communication to a Limousine/Executive Sedan Driver 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. Where prohibited, no [Limousine/Executive Sedan or Taxicab] Driver may accept a Dispatch from a hand-held remote device while driving.
- *Dispatch Business*: (which also may be known as a “Broker” or “transportation company”) 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] without a valid Dispatch License. A Dispatch Business shall, upon request, produce a Passenger Manifest. No Dispatch Business may Dispatch both Limousine/Executive Sedan and Taxicabs without holding both a limousine and a taxicab dispatch license.
- *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: the jurisdiction shall decide it shall allow for the dispatch of either or both Taxicabs and Limousines, and must specify “Taxicab Dispatch License” and “Limousine Dispatch License or include a collectively definition if for Dispatch of both.”]



- *Electronic Demand Response*: 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 Demand Response Booking or Prearranged booking of transportation services. Where prohibited, no Driver may accept an order for service from a hand-held remote device while driving.
- *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 entity or 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) is a vehicle in compliance with locally determined vehicle types and seating capacity, (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 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) may charge flat rates to common destinations such as an airport, (h) may assess waiting time charge in addition to prearranged fare, and (i) 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 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.
- *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, (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 and (4) the passenger drop-off location in compliance with [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]. Notwithstanding the foregoing, provided the passenger manifest includes the passenger drop-off which ends the reservation, there may be one or more drop-offs undisclosed at the time of booking.
- *Prearranged or Prearrangement*: indicates a response/dispatch of a for-hire vehicle with driver made in compliance with locally determined regulations. [See “**A NOTE ON MINIMUM FARES AND PRE-ARRANGEMENT REQUIREMENTS.**” which follows immediately after the Model Regulations, for more information]
- *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 fuel usage and/or tolls. Currency or any other form of electronic payment or other consideration collected in excess of reimbursement for fuel usage and/or tolls shall be considered for-hire transportation, and such applicable licenses are required. Rideshare transportation that satisfies the definition herein is exempt from [regulatory body] licensure. However, if any trip purported to be provided through a rideshare is made with a for-profit motive, such transportation will be considered for-hire transportation and such applicable licenses are required. Rideshare services that satisfy the definition herein exclude any and all for-hire transportation requirements as defined within this Code.

- *Stands*: means a place alongside a street, or elsewhere, where the [insert name of regulatory body in applicable jurisdiction] has authorized taxicab to stand, park or idle for picking up or discharging passengers. No Limousine shall stand, park or idle at an authorized Stand.
- *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 eight (8) passengers and shall accept demand response 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 driver.
- *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*: (which may also be know as a “Broker”) means an entity that is not a Dispatch Company or Limousine Base that (i) provides for referrals, affiliations, subcontracting or revenue/fee sharing for Dispatches and (ii) has a Third Party Agreement with a [Dispatch Company or Limousine Base]. No Third Party is allowed to enter into a Third Party Agreement with a [Limousine/Sedan Driver or Taxicab Driver] or directly Dispatch a [Limousine/Sedan Driver or Taxicab] Driver.

- *Third-Party Agreement*: means any written, regardless of whether electronic or otherwise, or oral agreement or arrangement made between a Third Party and a Dispatch Business or Limousine Base, or between a Dispatch Business or Limousine Base and another Dispatch Business or Limousine Base which provides for referrals, affiliations, subcontracting or revenue/fee sharing for Dispatches.

## DISPATCH BUSINESSES/LIMOUSINE BASES

### Section 1. Registration.

(a) Licensing. All entities, that are not a Third Party under a Third Party Agreement, which offer or make available its technology or service to Dispatch or in any way directly connect potential passengers and [Limousine/Executive Sedan or Taxicab] Drivers 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. [Only applicable to jurisdictions with existing accessibility rules or requirements] 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. [Only applicable to jurisdictions with existing accessibility rules or requirements] 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.

## Section 3. Business Operations.

- 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 demand response 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 maintained

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. Any vehicle accident information
  6. Lost and found for passenger items
  7. Length of storage must be for a minimum of [x months] [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. Date of prearrangement
    - b. Time of prearrangement
    - c. Method of prearrangement, [i.e.: website, application, telephone]
    - d. Confirmation of Dispatch (code issued, etc.)
    - e. Driver Dispatched
    - f. Vehicle Dispatched
    - g. Time of Dispatch
    - h. Location of Dispatch
    - i. Location of Drop-off
    - j. Fare charged
  3. Length of 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. Utilize 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.
  - 2. The [Dispatch Business or Limousine Base] shall be liable for all communications with passengers requesting service. In any case, the [Dispatch Business or Limousine Base] may not seek or obtain indemnification from passengers.
- c. All [Dispatch Businesses or Limousine Bases] are required to maintain the following information and documentation for drivers and vehicles it is affiliated with and/or Dispatches:
  - i. Evidence of a valid [State Driver's License issued by the regulatory body],
  - ii. Evidence of a valid [Taxicab Driver's License or Limousine Driver's License issued by the regulatory body],
  - iii. Evidence of a valid Vehicle License [Registration] issued by the [regulatory body],
  - iv. Evidence of valid insurance for both the [Dispatch Business or Limousine Base] and for each of the Drivers receiving and providing dispatched trips as required by the [regulatory body], and
  - v. Upon request, verified copies of all such documents must be placed on file with 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 it Dispatches 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 other [Dispatch Business or Limousine Base] or Third Party in connection with obtaining or 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 Dispatch Businesses shall ensure that all parties to any Third Party Agreement

remain liable under all Third-Party Agreements and no Indemnification may be sought from passengers.

- 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 [Dispatch Business or Limousine Base] such [Limousine/Executive Sedan or Taxicab] Driver is affiliated with.
- b. All Third-Party Agreements must be made by an appropriately licensed [Dispatch Business or Limousine Base].
- 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.
- d. All Dispatch Businesses shall ensure that all Third Party Agreements require the Third Party to disclose to the passenger and/or the party requesting the service, as soon as available, but in every event in advance of pick-up of the passenger, the [minimum of name, photo, or other identifying information with respect to the] [Limousine/Executive Sedan or Taxicab] Driver and [Dispatch Business or Limousine Base] Dispatched in connection with each service request.

#### 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 time] 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 be traceable to an active National Type Evaluation Program (NTEP) Certificate of Conformance issued by the National Conference on Weights and Measures (NCWM) and consistent with Publication 14 published by the NCWM (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 on-board 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 [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 8 passengers,
- iii. Have three or more doors,
- iv. Where meters are required, 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. Accept street hails from passengers in the street or a Dispatch from a valid Dispatch Business and all other Dispatches shall be prohibited, and
  - vii. Be affiliated with only one [Dispatch Business].
- b. Taxicabs must not:
- i. Be licensed as a Limousine/Executive Sedan, or
  - 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 in compliance with local regulations,
  - 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 and time of the passenger pick-up,
    2. The location of the passenger pick-up,
    3. Limousine/Executive Sedan Driver responsible for the trip,
    4. Limousine/Executive Sedan used during the trip,



5. For a trip in which the passenger (not a third-party) is paying the fare, 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, or
    - iii. Be Dispatched by a Taxicab Dispatch Business.

A NOTE ON MINIMUM FARES AND PRE-ARRANGEMENT REQUIREMENTS

Various jurisdictions have adopted and implemented a minimum fare and/or pre-arrangement requirements for its limousines/executive sedans to ensure that they are differentiated from taxicabs and that limousine service is of a high quality. For example, in Nashville, Tennessee, the Nashville Code of Ordinances Section 6.74.025(D)(1)(c) sets a minimum fare of \$45.00, and Section 6.74.025(D)(1)(b) requires that service be “[p]re-arranged directly with the livery service or pre-arranged through a Third Party.” As articulated in Bokhari, et al. v. Metropolitan Government of Nashville and Davidson County, the Nashville Metropolitan Government enacted these regulations to: (a) differentiate between limousines and taxicabs; (b) ensure that limousines would be of high quality; (c) ensure that drivers earn a living wage; and (d) lessen consumer confusion as to what fares could be charged by limousines.<sup>5</sup>

The Metropolitan Government of Nashville and Davidson County (“Nashville” hereafter) asked IATR President Matthew W. Daus to serve as an expert witness in defense of the enacted regulatory changes to create a minimum fare.<sup>6</sup> In his testimony, Professor Daus reported that the use of minimum fares in local ground transportation regulations is not an oddity. Moreover, the use of minimum fares can be traced back for more than 50 years. Professor Daus’ review of a wide array of jurisdictions resulted in his findings that the use of minimum fares is a well-established practice that policymakers have used in their jurisdictions to further one or more rational regulatory goals, including: 1) To differentiate between two classes of transportation

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<sup>5</sup> Syed Bokhari, Metro Livery, Inc., Richard J. Simpkins, and Allen Vanpliet v. Metropolitan Government of Nashville and Davidson County, Declaration of Brian McQuiston at pp. Case No. 3:11-CV-0088, U.S. District Court, Middle District of Tennessee, (Nashville Division), 2012.

<sup>6</sup> IATR President Daus currently serves as a Professor at the City University of New York’s Transportation Research Center at The City College of New York. He is a partner and Chair of the Transportation Practice Group at Windels Marx Lane & Mittendorf, LLP. Immediately prior to joining Windels Marx, President Daus served as the Chair of the New York City Taxi and Limousine Commission. Before serving as the Chair, he was the agency’s general counsel.

services; 2) To create economic distinctions between two sectors of transportation services; 3) To deter poaching; 4) To eliminate consumer confusion; and 5) To increase standards in the transportation industry, which may be particularly important for tourism or for jurisdictions that are hosting special events.<sup>7</sup> As part of his testimony, Professor Daus also provided the Court with a chart outlining a sampling of jurisdictions that employ minimum fares, and a second chart setting forth some of the stated reasons for using minimum fares. Copies of the charts are attached to these Model Regulations as Exhibit A.

Some of the jurisdictions Professor Daus discussed in his expert testimony have also implemented regulations requiring minimum pre-arrangement times for limousine and sedan services. In some cases, the minimum pre-arrangement times are implemented as distinctions to reduce consumer confusion for the available modes of transportation within a given jurisdiction, rather than as an inconvenience to the consumers.

As the IATR Apps Committee worked to complete these model regulations, the issues of minimum fares and minimum pre-arrangement times have created much debate and discussion, and there is no consensus among regulators or other stakeholders on this policy issue. As a result, the Apps Committee has included this Note to acknowledge that, despite a lack of consensus, local jurisdictions have valid reasons to include one or both of these requirements in their local regulatory framework. The Apps Committee recognizes that while these two measures are used as regulatory tools in numerous jurisdictions, there are also numerous jurisdictions that do not use these tools and, as such, the Apps Committee wanted to neither mandate these requirements in jurisdictions in which they are not currently implemented, nor abolish these requirements in jurisdictions in which the local regulators have used minimum

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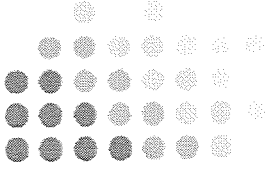
<sup>7</sup> Bokhari et al. v. Metropolitan Government of Nashville and Davidson County, Testimony of IATR President Professor Matthew W. Daus, Esq., Hearing Transcript, pp. 141-152, April 2, 2012

fares and pre-arrangement requirements as useful regulatory tools. For more information about the jurisdictions that employ minimum fares and/or pre-arrangement requirements, please see Exhibit B attached hereto.

These Model Regulations represent the research on best practices to ensure that there is a level playing field between the taxicab and the limousine/executive sedan sectors and that each sector can operate with technology companies. With regard to the minimum fares and minimum pre-arrangement times, the Apps Committee recognizes that the local regulator who understands the consumer market of the jurisdiction can ideally understand if the minimum fares or minimum pre-arrangement time requirements are necessary for the local regulatory structure, but may still seek guidance and additional information. The IATR stands ready to advise and assist local jurisdictions with regulatory reforms to implement these Model Regulations in whole, or in part, in light of the jurisdiction's history, consumer concerns and the existing modes of ground transportation.

Exhibit A

(Charts Attached)



**LIMOUSINE MINIMUM FARES – PRELIMINARY NATIONAL SAMPLE/SURVEY**

<b>Jurisdiction</b>	<b>Minimum Fare</b>	<b>Year Enacted</b>
Portland, Oregon	\$50	2009
Medford, Oregon	\$25	1985
Austin, Texas	\$45	1992
Houston, Texas	\$70 per hour for the first two hours, \$15 per hour thereafter	Amended in 1989 and 2005
Little Rock, Arkansas	\$50 per hour for a minimum of two hours	2004
Miami, Florida	\$40	2000
Hillsborough County, Florida	\$40	N/A
Atlanta, Georgia	Ranges from \$25 per hour (minimum) to \$60 per hour (maximum)	1977
New Orleans, Louisiana	Ranges from \$40 per hour (minimum) to \$65 per hour (maximum)	1956

## LIMOUSINE MINIMUM FARES – PUBLIC POLICY JUSTIFICATIONS

Jurisdiction	Rationales for a Minimum Fare
Portland, Oregon	<ul style="list-style-type: none"> <li>• Differentiate taxicabs from limousine services.</li> <li>• Prevent poaching by limousines of taxi business.</li> </ul>
Medford, Oregon	<ul style="list-style-type: none"> <li>• Differentiate taxicabs from limousine services.</li> <li>• Prevent poaching by limousines of taxi business.</li> </ul>
Miami, Florida	<ul style="list-style-type: none"> <li>• Differentiate taxicabs from limousine services.</li> <li>• Maintain consistent quality with limousine operators.</li> </ul>
Hillsborough County, Florida	<ul style="list-style-type: none"> <li>• Prevent poaching by limousines of taxi business.</li> <li>• Maintain consistent quality with limousine operators.</li> </ul>

## Exhibit B

Below includes a non-exhaustive list (in no particular order) of jurisdictions that currently utilize minimum fare and/or pre-arrangement requirements as regulatory tools. As you will note, the jurisdictions that employ minimum fares will differ in terms of the amounts of the minimum fares based on local concerns for those jurisdictions. In those jurisdictions that include minimum pre-arrangement times, there are differences in times which, again, reflect these local concerns.

1. **Portland, Oregon:** The Portland City Code and Charter provides that minimum for-hire transportation fares are to be determined administratively, Section 16.40.480(A), but requires that “[r]ates charged for limousine and executive sedan services must be at least 35 percent higher than the prevailing taxicab rates for the same route.”<sup>8</sup> On December 15, 2009, Portland adopted Administrative Rule LIC-8.35, which sets a minimum livery fare of \$50 per trip. According to City Commissioner Randy Leonard, taxi companies are held to certain requirements, such as 24-hour availability and conformity to set rates, which do not apply to limousines. The minimum fare for limousines was implemented to prevent limousines from poaching taxi passengers.<sup>9</sup> Portland also requires, with certain exceptions, that “[a]ll limousine and executive sedan service must be provided on a prearranged basis one hour in advance of the time to pick up a passenger.”<sup>10</sup> It should be noted that on April 26, 2012, Towncar.com and Fiesta Limousine filed a federal lawsuit in the U.S. District Court for the District of Oregon to challenge the 2009 regulatory changes. The litigation is currently pending.

2. **Medford, Oregon:** In 1985, the Medford City Council established a \$25.00 minimum fare for limousines “solely for the purpose of distinguishing a taxicab from a limousine.”<sup>11</sup>

3. **Austin, Texas:** In 1992, the Austin City Council approved City Code of Ordinances Section 13-2-203, which requires limousines to charge a minimum of \$45.00 per hour as a base rate, excluding other fees and gratuities, for the first six (6) hours of service.

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<sup>8</sup> Portland City Code § 16.40.480(C)

<sup>9</sup> James Mayer, *City has New Rules for Limousines, Pedicabs*, OREGON LIVE, (May 28, 2009, 12:08 PM), [http://www.oregonlive.com/portland/index.ssf/2009/05/city\\_has\\_new\\_rules\\_for\\_limousi.html](http://www.oregonlive.com/portland/index.ssf/2009/05/city_has_new_rules_for_limousi.html).

<sup>10</sup> Portland City Code § 16.40.460(A)

<sup>11</sup> Medford Municipal Code § 8.455(4)



Limousine service in Austin must also be prearranged.<sup>12</sup> In addition, Austin requires pre-arranged reservations for service made at least one hour in advance of the time the transportation is to begin, excluding performance under a corporate contract.<sup>13</sup>

4. **Houston, Texas:** In 2005, the Houston City Council approved a minimum charge of \$70.00 for the hiring, renting, or leasing of chauffeured limousine service for service under two (2) hours, and for the third and any hour after, a minimum charge of \$15.00 per hour.<sup>14</sup> The law constituted the first increase in the minimum fare since 1989. Limousine drivers in Houston are prohibited from operating at a location other than the usual place of business unless the limousine service has a filed, written agreement to operate at a motel or hotel. Limousine drivers are also prohibited from soliciting potential customers in public places or from displaying any advertising signs in the limousine at any time.<sup>15</sup> In addition, as part of these regulatory changes, the Houston City Council defined “pre-arranged transportation service” to mean transportation that is scheduled by or through a mobile dispatch service that uses a trip confirmation *not less than 30 minutes* before a vehicle for hire picks up a passenger who requested to be transported (emphasis added).<sup>16</sup>

5. **San Antonio, Texas:** Limousine service in San Antonio is defined as passenger ground transportation service operated for hire that uses stretch limousines, luxury vehicles, SUVs, mini-buses, limo-buses, limo-vans, or classic vehicles to transport passengers for a fare based on a one-hour or more hiring period and on an pre-arranged basis only. In San Antonio, “pre-arrangement basis” is defined as operating with a reservation for service made at least one hour in advance of the time the transportation is to begin.<sup>17</sup>

6. **Little Rock, Arkansas:** In 2004, Little Rock set a minimum fee for limousine service at \$50.00 per hour with a minimum of two (2) hours of service and a minimum fee for luxury vehicle fares at \$30.00 for the first hour and \$25.00 for every hour thereafter with a

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<sup>12</sup> Austin Code of Ordinances § 13-2-201

<sup>13</sup> Austin Code of Ordinance § 13-2-1(20)

<sup>14</sup> Houston Code of Ordinances § 46-242

<sup>15</sup> Houston Code of Ordinances § 46-241

<sup>16</sup> Houston Code of Ordinances §46-1

<sup>17</sup> San Antonio Code of Ordinances § 33-003

minimum of one (1) hour of service.<sup>18</sup> The ordinance also provides that, “No soliciting or street-side pickups of passengers are allowed.”<sup>19</sup>

7. **Miami, Florida:** Miami-Dade Code of Ordinances Section 31-604, enacted in 2000, requires that limousine rates shall not “be less than three and one-third (3 1/3) times the hourly rate of taxicabs.” Since 2005, \$40.00 is the lowest minimum rate for limousines or luxury sedans.<sup>20</sup> In Miami-Dade County’s website, as part of a summary of the Limousine Ordinance, states that “[t]he purpose of prescribing minimum limousine rates is to maintain the quality of limousine service in the County by establishing a level playing field for all limousine operators, and to differentiate between the types of limousine services as well as taxicab services to contribute to the viability of all sectors.”<sup>21</sup> Additionally, limousines in Miami may “provide service on a pre-arranged basis only, which is dispatched by its central business location.”<sup>22</sup> According to the Miami-Dade Code of Ordinances Section 31-601(bb), “*pre-arranged*” or “*pre-arrange*” means a written or telephone reservation made *at least one hour* in advance by the person requesting service at the place of business of the for-hire license holder for the provision of limousine service for a specified period of time (emphasis added).<sup>23</sup> On August 28, 2013, Miami-Dade Mayor Carlos Gimenez announced proposed changes to the rules for local taxicab service. Commissioner Audrey Edmonson has proposed, inter alia, eliminating the one-hour minimum pre-arrangement time.<sup>24</sup>

8. **Hillsborough County, Florida:** The County of Hillsborough, which includes Tampa, imposes a \$40.00 minimum rate of fare for limousine services within the county.<sup>25</sup> The County adopted this fare rate to “prevent a limousine operator from attempting to operate in the taxicab market and/or to create cut-throat rates that undermine the remaining limousine industry members.”<sup>26</sup>

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<sup>18</sup> Little Rock Code of Ordinances § 34-43

<sup>19</sup> Little Rock Code of Ordinances § 34-43

<sup>20</sup> See <http://www.miamidade.gov/csd/library/LimousineRates06.pdf> (last visited Feb. 15, 2012).

<sup>21</sup> <http://www.co.miami-dade.fl.us/csd/library/LimouseRates.pdf>

<sup>22</sup> Miami-Dade Code of Ordinances § 31-601(u)

<sup>23</sup> Miami-Dade Code of Ordinances § 31-601(bb)

<sup>24</sup> These proposals will be considered at a public hearing scheduled for September 24, 2013.

<sup>25</sup> Code of Law and Ordinances § 37 ½ - 62(a)

<sup>26</sup> HILLSBOROUGH COUNTY GOVERNMENT ONLINE, *Public Transportation - FAQ Limousines*, <http://www.hillsboroughcounty.org/publictransportation/faq/limo.cfm>.

9. **Atlanta, Georgia:** Section 162-133 of the Atlanta, Georgia Code of Ordinances,<sup>27</sup> enacted in 1977, provides that the minimum fare for limousine service rental shall not be less than \$25.00 per hour or more than \$60.00 per hour, and that fares for extended limousines shall not be less than \$25.00 per hour per vehicle. Further, limousines, extended limousines, vans and sedans travelling between the international airport to points in and beyond the downtown convention area, so long as such point is within the legal limits of the city, shall not charge less than \$50.00 per limousine or extended limousine trip and not less than \$40.00 per van or sedan trip.<sup>28</sup> Limousine service in Atlanta must be prearranged.<sup>29</sup>

10. **New Orleans, Louisiana:** Section 162-841 of the New Orleans Code of Ordinances provides that limousine fares shall not be "less than \$40.00 per hour, or more than \$65.00 per hour and the minimum hire period shall not be less than three hours." Additionally, the provision states "the rates charged for the hire of luxury sedans shall not be less than \$35.00 per hour, or more than \$50.00 per hour and the minimum hire period shall not be less than three hours." Minimum fares have been set by New Orleans since 1956.

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<sup>27</sup> This law was upheld in *Executive Town & Country Servs. v. City of Atlanta*, 789 F.2d 1523 (11th Cir.1986), discussed *supra*.

<sup>28</sup> Code of Law and Ordinances § 37 ½ - 62(a)

<sup>29</sup> Code of Law and Ordinances § 162-26

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