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Avalon No 1 Pty Ltd

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Ola Australia Pty Ltd

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# Ride share operator agreement

Avalon Airport

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## 2 Services

### 2.2 Authorised Drivers

- (a) Authorised Drivers may access the Designated Areas and Common Areas for the Permitted Purpose.
- (b) A Driver is an Authorised Driver if:
  - (i) the Driver has provided a Driver Acceptance; and
  - (ii) the Driver is an accredited driver (as defined in the *Commercial Passenger Vehicle Industry Act 2017*);
  - (iii) the Driver Acceptance has:
    - (A) been delivered or otherwise communicated to the Owner in a form and substance satisfactory to the Owner; and
    - (B) not been revoked by the Driver or terminated by the Owner;
  - (iv) the vehicle registration number of the Driver's Authorised Vehicle has been notified to the Owner in a form and substance satisfactory to the Owner; and
  - (v) the Driver is not on the Blacklist.
- (c) Before a Driver enters the Airport, the Operator must ensure that the Driver is an Authorised Driver.
- (d) Where an Authorised Driver ceases to be a Driver:
  - (i) the Operator must immediately notify the Owner in writing; and
  - (ii) the Driver is no longer an Authorised Driver for the purposes of this Agreement.
- (e) To the extent that a Driver Acceptance requires a Driver to do or not do any act or thing, the Operator must use all reasonable endeavours to ensure the Driver does or does not do that act or thing (as the case may be), and to the extent of any inconsistency between this clause and another provision of this Agreement, this clause shall prevail.
- (f) The Operator acknowledges and agrees that the execution or acceptance of a Driver Acceptance by a Driver does not in any way limit or remove the Operator's obligation to comply with the terms of this Agreement.

### 2.3 Driver Terms

- (a) The Owner may vary, amend or replace the Driver Terms from time to time in the Owner's sole and absolute discretion by giving the Operator a notice in writing which must include:
  - (i) a copy of the varied, amended or replacement Driver Terms (**Amended Terms**);

- (ii) date on which the Amended Terms will become the Driver Terms (**Amendment Date**), which must be at least 14 days after the date on which the notice is given to the Operator.
- (b) Within 2 Business Days after receiving a notice issued under clause 2.3(a), the Operator must notify each Driver:
  - (i) of the Amended Terms and the Amendment Date; and
  - (ii) that a Driver will not be an Authorised Driver on or after the Amendment Date unless and until it provides a Driver Acceptance in accordance with clause 2.2(a) in respect of the Amended Terms.
- (c) The Operator must use all reasonable endeavours to procure that each Driver that is an Authorised Driver at the date a notice is issued under clause 2.3(a) provides a Driver Acceptance in accordance with clause 2.2(a) on or before the Amendment Date.
- (d) For the avoidance of doubt:
  - (i) if a Driver has not provided a Driver Acceptance in respect of the Amended Terms, the Driver is not an Authorised Driver on or after the Amendment Date;
  - (ii) the Amended Terms become the Driver Terms for the purposes of this Agreement on and from the Amendment Date; and
  - (iii) the Owner may exercise its rights under clause 2.3(a) as often as the Owner sees fit.

## 2.4 Blacklist

- (a) The Owner may place a Driver on the Blacklist if:
  - (i) the Owner considers, acting reasonably, that the Driver has breached the Driver Terms;
  - (ii) the Driver engages in offensive, undesirable or dangerous behaviour (as determined by the Owner, acting reasonably);
  - (iii) the Driver Terms contemplate the Driver being placed on a blacklist; or
  - (iv) the Owner otherwise sees it fit to do so.
- (b) The Owner must notify the Operator in writing each time a Driver is placed on the Blacklist.
- (c) Where the Operator receives notice that a Driver has been placed on the Blacklist, the Operator must:
  - (i) immediately notify the Driver that it is on the Blacklist and is no longer an Authorised Driver; and
  - (ii) prevent a Driver that is on the Blacklist from entering or accessing the Airport.

## 4 Designated Areas

### 4.1 Designated Areas

The Owner will allocate a:

- (a) Pick-Up Area;
- (b) Drop-Off Area;
- (c) Holding Area,

and notify the Operator of those areas in writing.

### 4.2 Relocation

- (a) The Owner may relocate one or more of the Designated Areas from time to time in the Owner's sole and absolute discretion by giving the Operator not less than 28 days' notice specifying:

- (i) the part or parts of the Designated Areas being relocated;
- (ii) the new location of that Designated Area (or those Designated Areas, as the case may be), which is to be at a location and of a type and size determined by the Owner in the Owner's absolute discretion; and
- (iii) the date on which that area (or those areas, as the case may be) will become the new Designated Area (**Relocation Date**),

and the area so specified shall become the Designated Area from the Relocation Date for the purposes of this Agreement.

- (b) Within 2 Business Days after receiving a Relocation Notice, the Operator must notify each Driver of the Relocation Date and the new Designated Area.

### 4.3 Airport works

Subject to clause 7.5, the Owner or AAA may:

- (a) carry out construction or demolition works in any part of the Airport;
- (b) change the direction of pedestrian or vehicular traffic into, out of or through the Airport;
- (c) change the name, description or character of the Airport;
- (d) change the means of access to the Airport;
- (e) alter any part of the Airport, including by extending, redesigning, rearranging, constructing, reconstructing or rebuilding the Airport, including the Designated Area or any part thereof, the Airport's short

## 14 Application of the Airports Legislation

The Driver acknowledges that:

- (a) as part of its responsibilities as lessee and operator of the Airport, the Owner is bound to observe and perform the requirements of Airports Legislation and that any conduct of the Owner in such a capacity in the proper exercise of its powers is deemed not to be a breach of any of the Owner's covenants under this Agreement;
- (b) the Owner may exercise its powers, discretions and obligations under the Airports Legislation insofar as they relate to this Agreement or its rights under this Agreed Method of Operation independently and objectively and without regard to Driver's interests and rights as a party to this Agreement; and
- (c) all rights, powers and remedies conferred on the Owner by this Agreement or by Law, express or implied, may be exercised by the Owner or by any representative properly authorised to act on the Owner's behalf.

## 15 Warranties and representations

Each party represents and warrants to the other party that:

- (a) it has the power to enter into and perform this Agreement;
- (b) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement in accordance with its terms; and
- (c) the execution, delivery and performance of this Agreement by the party complies with its constituent documents.

## 16 Release and indemnity

- (a) The Driver agrees to indemnify the Owner, its Related Bodies Corporate and their respective officers, directors, agents and employees, from and against any and all Claims and Losses (including, but not limited to, reasonable attorney's fees, court costs and litigation expenses), arising out of or related to:
  - (i) the Driver's vehicle;
  - (ii) the Driver's performance of this Agreement or exercise of rights granted under this Agreement;
  - (iii) any act or omission of the Driver related to this Agreement;
  - (iv) the failure of the Driver to comply with any applicable Laws, ordinances, rules or regulations related to this Agreement; or
  - (v) any breach or default by the Driver of any of its obligations under this Agreement.
- (b) Notwithstanding the foregoing, Driver's liability under paragraph 15(a) will be reduced to the extent of any Claims arising out of or related to any negligent act or omission of the Owner or its officers, directors, agents, and employees.

- (c) The indemnities given by the Driver under this Agreement shall survive any expiration or termination of this Agreement.
- (d) The Driver acknowledges that the Owner is not liable to the Driver (or any passengers in Driver's vehicle, or any other party) for any loss, damage, injury or any incidental, indirect, special, consequential or economic loss or damage (including loss of opportunity, exemplary or punitive damages) whether to person or property (including Driver's vehicle) and whether arising from default, negligence, misconduct or otherwise by the Owner, its employees or agents.
- (e) The Owner reserves the right to tow or enter Driver's vehicle and move it where the vehicle has been left unattended or has become a hazard. Driver agrees that the Owner has no liability for any loss or damage caused as a result of entering or moving Driver's vehicle.
- (f) The Owner may collect any information (including personal information) reasonably required by the Owner to verify Driver's identity, authorisation, accreditation and licensing requirements, to monitor and enforce compliance with these terms and to ensure the safety and security of all users of the Airport. The Owner collects your personal information from you directly and also from others and through other means, including audio visual surveillance (operated by the Airport and its service providers), police and licensing authorities.

## 17 Insurance

The Driver must take out and maintain:

- (a) public liability insurance; and
- (b) compulsory third party and third party property damage insurance in respect of the vehicle of the Driver,

on terms (including as to the amount of coverage) and with an insurer acceptable to the Owner.

## 18 Driver acknowledgement

The Driver acknowledges and agrees that:

- (a) this Acceptance is given to the Owner and may be relied upon and enforced by the Owner;
- (b) to the extent the Operator holds, held or received the Driver's acceptance of this Agreement, the Operator holds, held and received the acceptance on behalf of the Owner and may provide the acceptance to the Owner;
- (c) where this Agreement contemplates the Owner issuing a notice or direction or exercising a right, that notice, direction or right may be exercised by:
  - (i) the Owner;
  - (ii) the Operator on behalf of the Owner;
  - (iii) any other person acting with the authority of the Owner.

## 19 No guarantee of trade

In entering into this Agreement, Driver does so entirely of its own volition and acknowledges that:

- (a) neither the Owner nor any of its Related Bodies Corporate, employees, agents or representatives has made any representation, express or implied, to the Operator or the Driver as to the volume of trade which may be anticipated by the Driver at the Airport;
  - (b) the Owner will not be liable to the Driver for any Loss (including loss of revenue or diminution in the business of Driver) resulting from any relocation, extension, or redesign of the Airport or any other capital works within the Airport, or from any interruption to flight or passenger movements or the movement of transport through the Airport howsoever caused; and
  - (c) the Driver has no exclusive rights or use or possession of the Designated Areas and must use those areas in common, and without any form of priority, with other users of the Airport.
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## 20 No exclusivity

The Driver acknowledges and agrees that the Driver does not have any exclusive rights to conduct business the same as or similar to all or any part of the business of the Driver at the Airport and that the Owner has the right, at all times, to arrange with others for similar activities at the Airport.

## 21 Amendments

- (a) The Owner may vary the terms of this Agreement, at any time and from time to time by notice in writing to the Driver, effective on the date set out in the notice (**Variation**).
- (b) The Driver accepts the Variation when it gives an acceptance of the Variation in accordance with clause 2(a) (as though the Variation was the Agreement as referred to in that clause).
- (c) Upon the Driver accepting the Variation in accordance with clause 21(b), the Variation becomes the Agreement (subject to any terms of the Variation to the contrary).
- (d) The Driver is not permitted to conduct a Passenger Pick-Up on or after the date on which the Variation takes effect unless and until the Variation is accepted by the Driver.

## 22 Assignment

- (a) The Owner may Transfer any or all of its rights or obligations under this Agreement to any person that takes over its lease of the Airport or who becomes responsible for the future operations of the Airport.
- (b) The rights of Driver under this Agreement are personal to the Driver and the may Transfer any of its rights or interest under this agreement to any other person.

## 23 Governing Law and jurisdiction

This Agreement is governed by and is to be construed in accordance with the laws in force in Victoria.