

Chapter 78

Licensing & Rules for Providers of E-Hail Applications

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§78-01 Scope of the Chapter

- (a) To establish a formal procedure for the licensing and supervision of businesses that sell, lease, or make available for use, software programs which are E-Hail Applications that reside on smartphones or other electronic devices.
- (b) To establish technical requirements for the E-Hail Applications which must be met in order for E-Hail Application Providers to apply for and obtain a license.
- (c) To establish services to be provided by E-Hail Application Providers for the benefit of individuals and businesses licensed by TLC and the public.
- (d) To establish appropriate penalties for the violation of these rules.

§78-02 Penalties

- (a) *Unlicensed Activity.*
 - (1) Unlicensed Activity is the act of providing or advertising the provision of any service regulated by this chapter by:
 - (i) Any E-Hail Application Provider Licensee whose License is suspended, revoked, or expired and not yet renewed, or
 - (ii) Any entity that does not hold a Valid License from the Commission for an E-Hail Application.
 - (2) Unlicensed Activity specifically includes the activities listed in §78-09 of these Rules and can result in License suspension, revocation, and other penalties.
- (b) *Specific Penalties.* If there are specific penalties for violating a Rule, they will be shown at the end of the Rule. The penalty section will also state whether the violator must attend a Hearing.
- (c) *Payment of Fines.*
 - (1) Fines are due within 30 days of the day the Respondent is found guilty of the violation, unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred 30 days after the date of the appeal decision.
 - (2) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be

suspended in 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

(d) *Non-Renewal of License; Suspension; Revocation.*

(1) Non-Renewal of License.

- (i) If an E-Hail Application Provider License is not timely renewed, the E-Hail Application Provider must immediately notify each Licensee who is using the E-Hail Application approved under the expired License that the License has expired and that the Licensee must terminate usage of the E-Hail Application.
- (ii) Upon expiration of the E-Hail Application Provider License, the E-Hail Application Provider must not enroll any further Licensees into the previously licensed E-Hail Application approved under the expired License.
- (iii) Upon expiration of the E-Hail Application Provider License, the E-Hail Application Provider must immediately cease offering the E-Hail Application for use to any Licensee or to the public for pickup requests in New York City.

(2) Suspension.

- (i) If an E-Hail Application Provider's License has been suspended by the Commission, the E-Hail Application Provider must immediately notify each Licensee who is using the E-Hail Application approved under the suspended License:
 - Of the dates during which the License is suspended, and
 - that the Licensee must terminate usage of the E-Hail Application for the duration of such suspension.
- (ii) Upon suspension of the E-Hail Application Provider License, the Provider must not enroll any further Licensees into the E-Hail Application approved under the suspended License for the duration of such suspension, and must immediately, for the duration of such suspension, cease offering the E-Hail Application for use to any already enrolled Licensee or to the public for pickup requests in New York City.

(3) Revocation.

- (i) If an E-Hail Application Provider’s License has been revoked by the Commission, the E-Hail Application Provider must immediately notify each Licensee who is using the E-Hail Application approved under the revoked License that:
 - its service agreement with the E-Hail Application Provider will be deemed terminated as of the date of License revocation, and
 - the Licensee must not continue to use the E-Hail Application.
- (ii) Upon revocation of the E-Hail Application Provider’s License, the Provider must not enroll any further Licensees into the E-Hail Application approved under the revoked License.
- (iii) An E-Hail Application Provider whose License has been revoked must cease offering use of the E-Hail Application approved under the revoked License to any Licensees or to the public for pickup requests in New York City.

§78-02(d)	Penalty: \$1,000 fine	Appearance NOT REQUIRED
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§78-03 Definitions Specific to this Chapter

- (a) *Applicant* in this Chapter means an Applicant for an original or renewal E-Hail Application Provider License.
- (b) *Credit, Debit, and Prepaid Card Services.* The portion of the E-Hail Application used to process Passenger payment of fare in a Vehicle by credit, debit, or prepaid card as described in §78-21(a) of these Rules.
- (c) *Database Management System.* A software package with computer programs that control the creation, maintenance and use of a database.
- (d) *E-Hail* has the same meaning as the same term in §51-03 of these Rules.
- (e) *E-Hail App Data.* All data required to be collected, transmitted and maintained pursuant to this Agreement. E-Hail App Data includes, but is not limited to, Trip Data as described in §78-21 of Commission Rules, data related to credit, debit, and prepaid card transactions, and data relating to E-Hail App usage. Any data that is transferred to the E-Hail App by TPEPs or LPEPs become E-Hail App Data once received by the E-Hail App.

- (f) *E-Hail Application* has the same meaning as the same term in §51-03 of these Rules.
- (g) *E-Hail Application Provider* is a person or entity licensed by these Rules to offer an E-Hail Application.
- (h) *E-Hail Application Provider License* is a license issued to a E-Hail Application Provider pursuant to this Chapter.
- (i) *E-Payment* has the same meaning as the same term in §51-03 of these Rules.
- (j) *Hail* has the same meaning as the same term in §51-03 of these Rules.
- (k) *Information System*. An interconnected set of information resources under the same direct management control that shares common functionality.
- (l) *License*. When the term “License” is used by itself in this Chapter—and in this Chapter ONLY—it refers to an E-Hail Application Provider License.
- (m) *LPEP Data*. All data required to be collected, transmitted and maintained pursuant to §83-31 of Commission Rules and other information assets related to the LPEP Data. LPEP Data includes, but is not limited to, Trip Data, data related to credit, debit and prepaid card transactions, and text messages and the date and time such messages were sent and received. Any data that is transferred to the LPEP by E-Hail Apps that provide E-Payment become LPEP Data once received by the LPEP.
- (n) *Modification of E-Hail Application*. Any modification to the E-Hail Application or related services after the Commission has issued a License for such E-Hail Application that would materially alter any of the following:
 - (1) functionality, performance characteristics, security measures, or technical environment of the E-Hail Application or related services;
 - (2) interfaces to TPEP or LPEP, or to the Software, Hardware, network, or other E-Hail Application components;
 - (3) the manner in which the E-Hail Application or related services are provided.

The addition or modification of a component allowing payment through the E-Hail Application constitutes a Modification.

A Modification of E-Hail Application does not include:

- (4) fixes and/or maintenance patches necessary to conform the E-Hail Application or any of its components or related services to the requirements set forth in §78-21 of these Rules; and

- (5) security patches to the extent such fixes or patches are necessary in the E-Hail Application Provider's good faith judgment to maintain the continuity of the E-Hail Application or related services or to correct an event or occurrence that would, if uncorrected, substantially prevent, hinder or delay proper operation of the E-Hail Application or related services.
- (o) *Non-consumer User.* Any individual, excluding a cardholder, who accesses Database Management System components, including, but not limited to employees, administrators and third parties.
- (p) *PCI Standards.* The Payment Card Industry Data Security Standards issued by the Payment Card Industry Security Standards Council as they may change from time to time. See www.pcisecuritystandards.org
- (q) *Personal Information* has the same meaning as the term as it is defined in New York General Business Law §899-aa(1)(a) and includes such information pertaining to passengers and drivers.
- (r) *Service Levels.* The standards of performance of the E-Hail Application and its components that are described in §§78-17 and 78-21 of these Rules.
- (s) *Security Incident or Incident* means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an Information System.
- (t) *TPEP Data.* All data required to be collected, transmitted and maintained pursuant to §75-25 of Commission Rules and other information assets related to the TPEP Data. TPEP Data includes, but is not limited to, Trip Data, data related to credit, debit and prepaid card transactions, and text messages and the date and time such messages were sent and received. Any data that is transferred to the TPEP by E-Hail Apps that provide E-Payment become TPEP Data once received by the TPEP.

§78-04 Licensing – General Requirements

- (a) *E-Hail Application Licensees.* An Applicant for an E-Hail Application Provider License or its renewal may be an individual or a Business Entity.
- (b) *License for Each E-Hail Application.* An application for a new or renewal E-Hail Application Provider License must be filed for each E-Hail Application for which Commission approval is sought. A separate E-Hail Application Provider License will be issued or renewed for each approved E-Hail Application. All License requirements of this Chapter apply to each License to be issued or renewed. An application for an E-Hail Application License must include (and the License for the E-Hail Application must include) any payment feature linked to the E-Hail Application whether or not the E-Hail

Application Provider provides the feature. The E-Hail Application, combined with the feature, must meet all requirements for E-Payment.

- (c) *Certification.* Any new or renewal application for an E-Hail Application Provider License must be filed on a form approved by the Chairperson. The Applicant must swear (or affirm) that the information in the application is true, under penalty of perjury.
- (d) *Proof of Identity.* The individual or Business Entity Person submitting the application for an E-Hail Application Provider License must provide to the Commission proof of identity in the form of a valid photo identification issued by the United States, a state or territory of the United States, or any political subdivision of a state or territory of the United States.
- (e) *Age.* The individual or Business Entity Person submitting an application for an E-Hail Application Provider License or its renewal must be at least 18 years of age.
- (f) *Fit to Hold a License.* An Applicant applying for an E-Hail Application Provider License or its renewal must demonstrate that they are Fit to Hold a License.
- (g) *Partnership Filings.* When the Applicant is a partnership, it must file with its License application a certified copy of the partnership certificate from the clerk of the county where the principal place of business is located.
- (h) *Corporate or LLC Filings.* When the Applicant is a corporation, it must file with its License application all of the following:
 - (1) One of the following certificates:
 - (i) A certified copy of its certificate(s) of incorporation with a filing receipt issued by the secretary of state if the Applicant was incorporated less than one year from the date of the License application
 - (ii) A certificate of good standing if the Applicant was incorporated more than one year from the date of the License application
 - (iii) A copy of the certificate of incorporation, filing receipt, and authority to do business within the State of New York if the Applicant is an out-of-state corporation
 - (2) *Limited Liability Companies (LLCs).* When the Applicant is a limited liability company, it must file with its application the following:
 - (i) A copy of its articles of organization

- (i) *Uniqueness of Name.* The Commission has the right to reject the proposed name of any E-Hail Application Provider that the Commission finds to be substantially similar to any name in use by another E-Hail Application Provider Licensee.
- (j) *Payment of Fines and Fees.*
 - (1) An Applicant, including an applicant for a renewal License, must pay, and provide proof of payment of, any outstanding fines or fees owed by the Applicant to
 - (i) the Commission,
 - (ii) NYC Department of Finance,
 - (iii) NYC Department of Consumer Affairs,
 - (iv) NYS DMV's Traffic Violations Bureau, and
 - (v) any of their successor agencies.
 - (2) This requirement includes payment of fines and fees owed as of the date of the application by
 - (i) any Business Entity Persons of the Applicant
 - (ii) any Business Entity of which the Applicant is a Business Entity Person, and
 - (iii) any Business Entity of which a Business Entity Person of Applicant is also a Business Entity Person.
- (k) *Address.* An Applicant must give the Commission the Applicant's current Mailing Address and Email Address as required by §78-14 of these Rules.

§78-05 Licensing – Specific Requirements

- (a) *E-Hail Application Approval for New License.* The Commission will not issue an E-Hail Application Provider License to any Applicant unless the Commission approves the E-Hail Application proposed for sale, lease or use by the Applicant. In determining whether to approve the E-Hail Application, the Commission will consider, in its sole discretion, whether the documentation required to be submitted by the Applicant pursuant to subdivision (b) of this section adequately demonstrates that the E-Hail Application complies with all of the requirements set forth in §78-21 of these Rules, or as such requirements may be waived or modified by the Commission pursuant to subdivision (f) of this section.

- (b) *Documentation for E-Hail Application Approval.* The Applicant must submit with its License application a detailed description of its E-Hail Application’s functionality and its compliance with the requirements set forth in §78-21 of these Rules, as well a list of all third-party designees the E-Hail Provider will use in offering E-Hail or E-Payment services. If the Application includes E-Payment, the Applicant must submit with its License application the documentation described in paragraphs (1) through (3) of this subdivision. All documentation pertaining to an independent third party must be accompanied by a signed authorization from the Applicant authorizing the Commission to contact the independent third party directly and authorizing the independent third party to respond to inquiries from the Commission.
- (1) An acceptance test plan that uses information technology industry testing tools, techniques and methodologies designed to comprehensively test whether the E-Hail Application and related services comply with all of the requirements set forth in §78-21 of these Rules, or as such requirements may be waived or modified by the Commission pursuant to subdivision (f) of this section;
 - (2) Documentation demonstrating that an independent third party that is accredited by the American National Standards Institute-American Society of Quality National Accreditation Board (“ANAB”) to perform International Organization for Standardization (“ISO”) 9001 certifications has performed acceptance testing consistent with the acceptance test plan, and the successful results of the acceptance testing; and
 - (3) Documentation, to be renewed and resubmitted to the TLC every twelve (12) months, demonstrating that an independent third party that is a Qualified Security Assessor (“QSA”) company has performed security testing of the E-Hail Application and related services to determine compliance with the security standards set forth in §78-21(f) of these Rules, or as such standards may be waived or modified by the Commission pursuant to subdivision (f) of this section, and the successful results of the security testing.
- (c) *Information Security and Use of Personal Information Policy.* The Applicant must submit with its License application an information security and use of personal information policy that includes, at a minimum, the following information:
- (1) a statement of internal access policies relating to passenger and driver Personal Information for employees, contractors, and third party access, if applicable;
 - (2) a statement that, except to the extent necessary to provide credit, debit, and prepaid card services and services for any application that provides for electronic payment, Personal Information will only be collected and used with

such passenger's affirmative express consent and that such personal information will not be used, shared, or disclosed, except for lawful purposes;

- (3) procedures for notifying the Commission and affected parties of any breach of the security of the system, pursuant to section 899-aa of the General Business Law;
 - (4) a statement that any credit, debit, or prepaid card information collected by the Applicant or a credit, debit, or prepaid card services provider is processed by the Applicant or such provider in compliance with applicable payment card industry standards, and
 - (5) a statement of the Applicant's policies regarding the use of passenger geolocation information, which must include, at a minimum, a prohibition on the use, monitoring, or disclosure of trip information, including the date, time, pick-up location, drop-off location, and real-time vehicle location and any retained vehicle location records, without such passenger's affirmative express consent.
- (d) *Modification of E-Hail Application.* If after the E-Hail Application Provider License is issued pursuant to this Chapter, the E-Hail Application Provider Licensee wants to implement a Modification, the E-Hail Application Provider Licensee must submit an application for approval of a Modification of E-Hail Application by submitting all documentation required by subdivision (b) of this section and the fee required in §78-07(b) of these Rules. The Commission will treat the submission as an application for a new E-Hail Application Provider License. If the Commission approves the Modification, the existing E-Hail Application Provider License will apply to the modified E-Hail Application.
- (e) *Required Insurance.* After submission of an application for a new E-Hail Application Provider License, an Applicant must provide to the Commission proof of the insurance required in this subdivision when the Commission requests it. Upon submission of an application to renew an E-Hail Application Provider License, the E-Hail Application Provider Licensee must provide to the Commission proof of the insurance required in this subdivision.
- (1) Commercial General Liability Insurance.
 - (i) The Applicant must maintain Commercial General Liability ("CGL") Insurance covering the Applicant as Named Insured and the City as an Additional Insured in the amount of at least Five Million Dollars (\$5,000,000) per occurrence. The insurance must protect the City and the Applicant from claims for property damage and/or bodily injury, including death that may arise from any of the operations performed or to be performed by or on behalf of the Applicant in connection with any of the activities licensed under this Chapter. Coverage under this insurance must

be at least as broad as that provided by the most recently issued Insurance Services Office (“ISO”) Form CG 0001, and must be "occurrence" based rather than “claims-made.”

- (ii) If the Applicant’s subcontractor(s) is/are performing or will perform operations in connection with any of the activities licensed under this Chapter, either the Applicant’s CGL Insurance under subparagraph (i) of this paragraph must cover the subcontractor(s) or such subcontractor(s) must maintain its/their own CGL Insurance subject to all other requirements herein.
 - (iii) The CGL Insurance must name the City, together with its officials and employees, as an Additional Insured with coverage at least as broad as the most recently issued ISO Form CG20 10.
- (2) Professional Liability Insurance.
- (i) In the Commission’s discretion, if professional services will be performed by the Applicant in connection with any of the activities licensed under this Chapter, the Applicant must maintain and submit evidence of Professional Liability (“PL”) Insurance appropriate to the type(s) of services performed by the Applicant in the amount of at least One Million Dollars (\$1,000,000) per claim. The policy or policies must include an endorsement to cover the liability assumed by the Applicant under this Chapter arising out of the negligent performance of professional services or caused by an error, omission or negligent act of the Applicant or anyone employed by the Applicant.
 - (ii) If the Applicant’s subcontractor(s) is/are performing or will perform professional services in connection with any of the activities licensed under this Chapter for which PL Insurance is reasonably commercially available, either the Applicant’s PL Insurance under subparagraph (i) of this paragraph must cover the subcontractor(s) or such subcontractor(s) must maintain its/their own PL Insurance subject to all other requirements herein.
 - (iii) Claims-made policies will be accepted for Professional Liability Insurance. The policies must have an extended reporting period option or automatic coverage of not less than two (2) years. If available as an option, the Applicant must purchase extended reporting period coverage effective on cancellation or termination of the insurance unless a new policy is secured with a retroactive date, including at least the last policy year.
- (3) Crime Insurance.
- (i) The Applicant must maintain crime insurance to protect against employee dishonesty, covering tangible property or moneys against loss, damage or destruction resulting from larceny, theft, embezzlement, forgery, robbery, misappropriation, willful misapplication or other fraudulent or dishonest

acts committed by the Applicant's employees or agents. The liability limits under the policy must be at least One Million Dollars (\$1,000,000) per occurrence.

- (ii) If the Applicant's subcontractor(s) is/are performing or will perform operations in connection with any of the activities licensed under this Chapter, either the Applicant's crime insurance under item (i) above must cover the subcontractor(s) employees or agents or such subcontractor(s) must maintain its/their own crime insurance subject to all other requirements herein.

(4) General Requirements for Insurance Coverage and Policies.

- (i) All required insurance policies must be maintained with companies that may lawfully issue the required policy and have an A.M. Best rating of at least A- / "VII" or a Standard and Poor's rating of at least A, unless prior written approval is obtained from the Commission.
- (ii) All insurance policies must be primary (and non-contributing) to any insurance or self-insurance maintained by the City.
- (iii) The Applicant must be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which the policies are subject, whether or not the City is an insured under the policy.
- (iv) There must be no self-insurance program with regard to any insurance required under this subdivision unless approved in writing by the Commission. Any self-insurance program must provide the City with all rights that would be provided by traditional insurance required under this subdivision, including but not limited to the defense obligations that insurers are required to undertake in liability policies.
- (v) The City's limits of coverage for all types of insurance required under this subdivision must be the greater of:
 - (A) the minimum limits set forth in this subdivision; or
 - (B) the limits provided to the Applicant as Named Insured under all primary, excess, and umbrella policies of that type of coverage.

(5) Proof of Insurance.

- (i) For each policy required under this subdivision, the Applicant must file with the Commission a Declarations Page issued by the insurer. All Declaration Pages must be:
 - (A) in a form acceptable to the Commission and certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits;
 - (B) accompanied by the endorsement in the Applicant's Commercial General Liability Insurance policy by which the City has been made an Additional Insured pursuant to subparagraph (iii) of paragraph (1) of this subdivision; and
 - (C) accompanied by either a duly executed "Certification by Insurer" in the form provided by the Commission or copies of all policies referenced in the Declarations Page. If complete policies have not yet been issued, binders are acceptable, until the complete policies have been issued, at which time such policies must be submitted.
- (ii) The Applicant must provide the Commission with a copy of any policy required under this subdivision upon demand by the Commission or the New York City Law Department.
- (iii) Acceptance by the Commission of a Declarations Page or a policy does not excuse the E-Hail Application Provider from maintaining policies consistent with all provisions of this subdivision (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.
- (iv) If the E-Hail Application Provider receives notice, from an insurance company or other person, that any insurance policy required under this subdivision will expire, be cancelled, or terminated for any reason, the E-Hail Application Provider must immediately forward a copy of the notice to the Commission and the New York City Comptroller at:

NYC Taxi and Limousine Commission
Attn: General Counsel
33 Beaver Street 22nd Floor
New York, New York 10004

New York City Comptroller
Attn: Office of Contract Administration
Municipal Building, One Centre Street, Room 1005
New York, New York 10007.

(6) Miscellaneous Insurance Provisions.

(i) Whenever notice of loss, damage, occurrence, accident, claim or suit is required under a Commercial General Liability policy maintained in accordance with this subdivision, the E-Hail Application Provider must provide the insurer with timely notice thereof on behalf of the City. Notice must be given even where the E-Hail Application Provider may not have coverage under such policy (for example, where one of the E-Hail Application Provider's employees was injured). Notice must expressly specify that "this notice is being given on behalf of the City of New York as Additional Insured" and contain the following information:

- the number of the insurance policy;
- the name of the named insured;
- the date and location of the damage, occurrence, or accident;
- the identity of the persons or things injured, damaged, or lost; and
- the title of the claim or suit, if applicable.

The E-Hail Application Provider must simultaneously send a copy of the notice to:

The City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division,

New York City Law Department,

100 Church Street, New York, New York 10007.

If the E-Hail Application Provider fails to comply with the requirements of this subparagraph, the E-Hail Application Provider must indemnify the City for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City.

(ii) Insurance coverage in the minimum amounts required in this subdivision shall not relieve the E-Hail Application Provider Licensee of any liability for indemnification under this Chapter.

(iii) The E-Hail Application Provider waives all rights against the City, including its officers and employees, for any damages or losses that are covered under any insurance required under this subdivision (whether or not such insurance is actually procured or claims are paid under such insurance) or any other insurance applicable to the activities of the E-Hail

Application Provider and/or its subcontractors required to be licensed under this Chapter.

- (iv) If the E-Hail Application Provider requires any subcontractor to procure insurance in connection with any of the activities licensed under this Chapter and requires the subcontractor to name the E-Hail Application Provider as an additional insured under such insurance, the E-Hail Application Provider must ensure that such entity also names the City, including its officials and employees, as an additional insured with coverage at least as broad as the most recently issued ISO form CG 20 26.

- (f) *Renewals of Required Insurance Policies.* The E-Hail Application Provider must submit to the Commission Certificates of Insurance confirming renewals of insurance before coverage of insurance policies required under subdivision (d) of this section expires. Certificates of Insurance must comply with the requirements of subparagraph (d)(5)(i) above.

§78-05(e)	Penalty: \$1,500 fine and/or suspension up to 60 days or revocation	Appearance REQUIRED
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- (g) *Waivers or Modifications.* Except where expressly prohibited by law, the Chairperson may, in his or her discretion, waive or modify any requirements for licensing under this Chapter in the interests of public safety and convenience. Requests for waivers or modifications must be submitted in writing to the Chairperson.

§78-06 Licensing – Bond Required

- (a) *Amount of Bond.* An Applicant for an E-Hail Application Provider License or renewal must deposit or have deposited with the Commission a fifty thousand dollar (\$50,000) bond per E-Hail Application, payable to the City of New York. The bond must be provided by one or more sureties approved by the Commission.
- (b) *Bond Guarantees.* The bond must guarantee that the Applicant or licensed E-Hail Application Provider will:
 - comply with all applicable provisions of law and rules of the Commission,
 - pay all fines imposed by the Commission, and
 - pay all judgments or settlements arising from any action connected in any way with the E-Hail Application Provider License.
- (c) *Fines and Judgments.* The E-Hail Application Provider is immediately liable for the payment of any fine or judgment when the amount is determined or upon final determination of an appeal. If the fine is not paid as required by § 78-02(c) of these Rules, the Commission may draw upon the bond.

§78-07 Licensing – Fees and Term of License

- (a) *Fee.* Every application for a new or renewal E-Hail Application Provider License must be accompanied by a non-refundable application fee of \$500 for each License to be issued or renewed for the term as provided in subdivision (g) of this section.
- (b) *Modification of E-Hail Application Fee.* Every application for approval of a Modification of E-Hail Application must be accompanied by a non-refundable application fee of \$500 for each E-Hail Application for which a Modification of E-Hail Application is sought.
- (c) *Form of Payment.* All application fees must be paid in the form authorized by §52-40 of these Rules.
- (d) *No Refund if Application Denied.* The Commission will not refund fees if it denies or disapproves the application.
- (e) *License Replacement Fee.* The fee to replace any lost, damaged or destroyed License is \$25.
- (f) *Late Filing Fee.* If the Commission allows a late filing for a renewal application, there will be an additional late filing fee of \$25.
- (g) *Term of License.* The term of an E-Hail Application Provider License will be three years or less and each License will expire on October 31st.
- (h) *When to File for Renewal.*
 - (1) To avoid a late fee, a renewing Applicant must file a completed application at least sixty (60) days before the expiration date of the License.
 - (2) A renewing Applicant may file a completed application less than sixty (60) days before the expiration date as a “late application”. The fee for the late application will be \$25.
 - (3) The postmark date is the date of filing for an application that is filed by mail. The date of submission is the date of filing for an application that is filed in person.
 - (4) The Commission will not accept a renewal application after the expiration date of the License. If the application is not filed before the expiration date, the License cannot be renewed.
- (i) *Suspended Licenses.*
 - (1) If a License is suspended and it is also due to be renewed, the E-Hail Application Provider Licensee must apply for renewal as required in subdivision (h) above if the E-Hail Application Provider Licensee wants to renew the License. Failure to complete the renewal requirements means that the License cannot be renewed.

- (2) A License that is suspended is not Valid and cannot be used until the suspension ends. This applies even if the Applicant has filed an application for a renewal.

§78-08 Licensing – Cause for Denial

- (a) *Failure to Continuously Comply.* Whenever the Commission determines that the E-Hail Application Provider no longer meets the requirements for the E-Hail Application Provider License, the Commission may suspend or revoke the License and deny any application for renewal.
- (b) *Summary Suspension.* Nothing in this section limits the authority of the Commission to summarily suspend any E-Hail Application Provider License when a threat to public health, safety, or welfare exists.
- (c) *Failure to Complete Application Requirements*
- (1) The Chairperson may deny an application for a new License if the Applicant has not completed all the requirements of an application within ninety (90) days of the date the application is filed.
- (2) The Chairperson may deny an application for a renewal License if the Applicant has not completed all the requirements of an application by the expiration date of the prior License.
- (d) *Additional Consideration of an Application.* If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within a reasonable period as requested or failure to appear at a scheduled interview will result in a denial of the application.

§78-09 General Requirements – Unlicensed Activity

- (a) *E-Hail Application Provider License Required.* An individual or Business Entity must not sell, lease, or make available for use in New York City an E-Hail Application or enroll any individual or Business Entity into an E-Hail Application without a Valid E-Hail Application Provider License.
- (b) An E-Hail Application Provider must not permit the use of a non-TPEP or non-LPEP electronic credit card payment system unless that system uses:
- (i) E-Payment that is contained within a licensed E-Hail Application and that meets all the requirements of this Chapter, or

(ii) E-Payment that is linked to a licensed E-Hail Application, whether or not provided by the E-Hail Application Provider, that meets all requirements of this Chapter.

§78-09	Penalty: \$10,000	Appearance REQUIRED
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§78-10 General Requirements – Compliance with Applicable Law

- (a) *Licenses and Permits.* An E-Hail Application Provider Licensee must obtain licenses and permits required by applicable local, state or federal law.
- (b) *Occupational Safety & Health Administration.* An E-Hail Application Provider Licensee must comply with all applicable Occupational Safety and Health Administration (OSHA) standards and requirements at the E-Hail Application Provider Licensee’s place of business, as well as all other federal, state, and local laws governing its business.
- (c) *Payment of All Fines and Fees.* An E-Hail Application Provider Licensee must pay all fines, fees, and taxes it owes to any federal, state, or local governmental jurisdiction when they are due.
- (d) *Workers’ Compensation Laws.* An E-Hail Application Provider Licensee must comply with all laws regarding workers’ compensation and disability benefits, as well as all federal laws regarding the withholding of taxes and payment of FICA and other withholding taxes.

§78-10	Penalty: \$1,000 fine and/or suspension until compliance	Appearance NOT REQUIRED
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§78-11 General Requirements – Indemnification

- (a) *General Indemnification.* An E-Hail Application Provider Licensee must defend, indemnify and hold the City, its officers and employees harmless from any and all third-party claims (even if the allegations of the lawsuit are without merit) or judgments for damages on account of any injuries or death to any person or damage to any property and from costs and expenses (including reasonable attorneys’ fees) to which the City, its officers and employees may be subjected or which it may suffer or incur allegedly arising out of any operations of the E-Hail Application Provider Licensee and/or its employees, agents or subcontractors in connection with any of the activities licensed under this Chapter to the extent resulting from any negligent act of commission or omission, any intentional tortious act, or failure to comply with any of the provisions of this Chapter. Insofar as the facts or law relating to any third-party claim would preclude the City from being completely indemnified by the E-Hail Application Provider Licensee, the City shall be partially indemnified by the E-Hail Application Provider Licensee to the fullest extent permitted by law.
- (b) *Infringement Indemnification.* An E-Hail Application Provider Licensee must defend, indemnify and hold the City harmless from any and all third-party claims (even if the

allegations of the lawsuit are without merit) or judgments for damages and from costs and expenses (including reasonable attorneys' fees) to which the City may be subjected or which it may suffer or incur allegedly arising out of or in connection with any infringement by the E-Hail Application Provider Licensee, its agents or subcontractors of any copyright, trade secrets, trademark or patent rights or any other property or personal right of any third party in the conduct of the licensed activities. Insofar as the facts or law relating to any third-party claim would preclude the City from being completely indemnified by the E-Hail Application Provider Licensee, the City shall be partially indemnified by the E-Hail Application Provider Licensee to the fullest extent permitted by law.

- (c) *Not Limited by Insurance.* The indemnification obligations set forth in this section shall not be limited in any way by the E-Hail Application Provider Licensee's obligations to obtain and maintain insurance as provided in §78-05(d) of these Rules.

§78-11(a)-(b)	Penalty: \$1,000 fine and/or suspension until compliance	Appearance REQUIRED
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§78-12 General Requirements – Unlawful Activities Prohibited

- (a) An E-Hail Application Provider Licensee must not file with the Commission any statement that he or she knows or reasonably should know to be false, misleading, deceptive, or materially incomplete.

§78-12 (a)	Penalty: \$10,000 fine and revocation	Appearance REQUIRED
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§78-13 General Requirements – Notice to TLC

- (a) *Material Change in Information.* An E-Hail Application Provider Licensee must notify the Commission of any material change in the information contained in its current E-Hail Application Provider License application or renewal.

§78-13(a)	Penalty: \$1,000 fine and/or suspension up to 30 days	Appearance REQUIRED
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- (b) *Suspension or Revocation of License.* An E-Hail Application Provider Licensee must immediately notify the Commission in writing of any suspension or revocation of any license granted to the E-Hail Application Provider Licensee, or any other person acting on his or her behalf, by any agency of the City or State of New York, or the government of the United States.

§78-13(b)	Penalty: \$1,000 fine and suspension until compliance	Appearance REQUIRED
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- (c) *Security Breach:* The E-Hail Application Provider Licensee must inform the Commission if it is required to make disclosures under State or Federal law regarding security breaches, including the New York State Information Security Breach and Notification Act (General Business Law §899-aa).

§78-13(c)	Penalty: \$1,000 fine and suspension until compliance	Appearance REQUIRED
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§78-14 Business Requirements – Mailing and Email Address

- (a) Each E-Hail Application Provider must designate and provide the Commission the street address of its primary E-Hail Application Provider location as its Mailing Address.
- (b) An E-Hail Application Provider must have and provide the Commission a working Email Address and telephone number at all times.
- (c) An E-Hail Application Provider must report any change of Mailing Address, Email Address and telephone number to the Commission in person or by mail within ten days.

§78-14(a)-(c)	Fine: \$100	Appearance NOT REQUIRED
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- (d) Any communication from the Commission is sufficient if sent to the last Mailing Address or E-Mail Address provided by the E-Hail Application Provider.
- (e) Any communication from the Commission, except notices and summonses for which the manner of service is specified in §68-05 of these Rules, is sufficient if sent by email to the last Email Address provided by the E-Hail Application Provider.

§78-15 Business Requirements – Fees Charged by E-Hail Application Provider Licensees

- (a) *Tips and Gratuities.*
- (1) An E-Hail Application Provider cannot charge a Passenger a tip or gratuity unless
- (i) The Driver receives the full amount of such tip or gratuity, without any withholding or sharing, and
 - (ii) The Passenger can elect to change or withhold payment of such tip or gratuity at any time prior to completion of the trip and payment of the fare.
- (2) An E-Hail Application Provider must not charge as a tip or gratuity (or using the words “tip” or “gratuity” or something similar) any fee that the Provider will retain.

§78-15(a)	Penalty: \$200 fine	Appearance NOT REQUIRED
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(b) *Fares.* An E-Hail Application and an E-Hail Application Provider must NOT charge any Passenger a fare for a trip that exceeds the fare as calculated by the Taximeter, permitted in §58-26 and §82-26 of these Rules. The E-Hail App and the E-Hail App Provider may however charge additional fees to a Passenger above the fare for the trip in accordance with subdivision (c) below so long as such fees are clearly delineated and not called a fare or tip or gratuity.

NOTE: If an E-Hail App Provider charges a per-trip fee for use of the E-Hail App and if the fee is assessed on a per-trip basis and bundled into the same credit card transaction as the payment of the fare, the Provider is required to have an agreement with either the merchant of record, or if processed through the TPEP or LPEP, the TPEP or LPEP Provider, as to how the fee will be remitted to the E-Hail App Provider. The agreement must be outlined in the E-Hail App Provider's application documentation and must ensure that the per-trip fee is remitted in its entirety to the E-Hail App Provider and is not retained by the Driver.

§78-15(b)	Penalty: \$1000 fine	Appearance NOT REQUIRED
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(c) *Notice of Fees.* The E-Hail App Provider must provide Passengers and/or Drivers with reasonable notice of all Passenger and Driver fees and rates charged by the E-Hail App Provider for use of the E-Hail App, as applicable, including but not limited to any variable or surge pricing policies applicable to the fees charged by the E-Hail App Provider, cancellation fees, and no-show fees, prior to Drivers' or Passengers' use of the E-Hail App for request of a trip.

- (1) The amounts of any fees must be viewable within the E-Hail Application;
- (2) The E-Hail App Provider is permitted to charge cancellation fees to Passengers and/or Drivers who cancel E-Hailed trips using the E-Hail App if the cancellation fees comply with the notification requirements outlined in this subdivision and appear on the fee schedule described in subdivision (d) of this section.
- (3) The E-Hail App Provider must provide Drivers and/or Passengers with reasonable notice of any modifications of such fees or rates, as applicable, prior to the effective date of the modifications.

(d) *File Fee Schedule.* The E-Hail App Provider must file with the Commission a complete schedule of fees and rates charged to Passengers and/or Drivers for use of the E-Hail App, including but not limited to, any variable or surge pricing policies applicable to the fees charged by the E-Hail App Provider, cancellation fees, and no-show fees, and the fee structure (such as whether it is based on per-trip usage, a subscription fee, or some other manner). The fee schedule must clearly delineate to which party (the Passenger or Driver) each fee is assessed. The E-Hail App Provider must also file with the Commission all schedule updates.

(e) *File User Agreement Terms.* The E-Hail App Provider must file with the Commission all forms of the user agreements, use contracts, and privacy terms it requires for use, sale, and lease of the E-Hail App, both as to Passengers and Drivers. The E-Hail App Provider must file with the Commission all updates of such documents and/or terms reflecting changes thereto.

§78-16 Business Requirements – Use of E-Hail Application

All of the following conditions apply with regard to an E-Hail Application Provider’s making an E-Hail Application available for use:

- (a) The E-Hail Application Provider must not make an E-Hail Application available for use unless the E-Hail Application has been approved by the Commission pursuant to this Chapter and the E-Hail Application to be used is identical to the E-Hail Application that was approved;
- (b) No modification will be made to any Vehicle to install or mount a device on which the E-Hail Application is to be used without the permission of the Chairperson and the approval of the device and its installation and/or mounting in the Vehicle.

§78-16	Penalty: \$500-\$1,500 fine and/or suspension up to 60 days or revocation for each subdivision violated	Appearance REQUIRED
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§78-17 Business Requirements – Compliance with E-Hail Application Requirements and Service Levels

- (a) *Credit, Debit, and Prepaid Card Payment.*
 - (1) An E-Hail Application Provider must ensure that an E-Hail Application that includes E-Payment provides Credit, Debit, and Prepaid Card Services complies with the requirements of §78-21(a) of these Rules.
 - (2) An E-Hail Application Provider must ensure, for an E-Hail Application that includes E-Payment, that when Passengers pay by credit, debit, or prepaid card, the Driver receives deposit of funds within forty-eight (48) business hours, excluding banking holidays, of transmission of a batch close transaction from the E-Hail Application, except for incidents when there is a fraud investigation.
 - (3) An E-Hail Application must not provide a Driver compensation for a trip that exceeds the fare for the trip plus tolls and tip if any.

§78-17 (a)	Penalty: \$500 fine and/or suspension up to 60 days or revocation for each paragraph violated	Appearance REQUIRED
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(4) An E-Hail Application may permit Passengers to split a fare if this feature is provided by the party processing the fare payment.

- (b) *Trip Data Collection and Transmission.* An E-Hail Application Provider must ensure that an E-Hail Application collects and stores relevant trip information to obtain a complete trip record, and transmits such data to TPEP, LPEP, or the Commission in compliance with the requirements in §78-21(c) of these Rules.

§78-17(b)	Penalty: \$500 fine and/or suspension up to 60 days or revocation	Appearance REQUIRED
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- (c) *Fees to TPEP.* An E-Hail Application Provider must ensure that an E-Hail Application provides payment to the TPEP Provider as provided in §75-25(n)(3).

§78-17(c)	Penalty: \$500 fine and/or suspension up to 60 days or revocation	Appearance REQUIRED
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- (d) *Use Restrictions.* An E-Hail Application Provider must ensure that an E-Hail Application restricts usage of the Application in compliance with the use restrictions in §78-21(d) of these Rules.

§78-17(d)	Penalty: \$500 fine and/or suspension up to 60 days or revocation	Appearance REQUIRED
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- (e) *Security.* An E-Hail Application Provider must ensure that with respect to an E-Hail Application, the E-Hail Application Provider is in compliance with the security requirements in §78-21(f) of these Rules.

§78-17(e)	Penalty: \$500 fine and/or suspension up to 60 days or revocation	Appearance REQUIRED
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- (f) *Data Retention.* An E-Hail Application Provider must ensure that, with respect to an E-Hail Application, all data required to be maintained pursuant to §78-21 of these Rules is maintained for the period required in §78-21(g).

§78-17(f)	Penalty: \$500 fine and/or suspension up to 60 days or revocation	Appearance REQUIRED
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- (g) *Inspection by TLC.* An E-Hail Application Provider must ensure that an E-Hail Application can be inspected and accessed by Commission personnel at any time. This

requirement includes providing access to the E-Hail Application with requisite Driver and Passenger test IDs and access to the Driver and Passenger versions of the E-Hail App to facilitate testing.

§78-17(g)	Penalty: \$500 fine and/or suspension up to 60 days or revocation	Appearance REQUIRED
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- (h) *Commission Ordered Testing.* In any proceeding where the E-Hail Application Provider has been found guilty of a violation of any of the provisions of this section, the Commission may order the E-Hail Application Provider to provide, within sixty (60) days of the final decision on the violation:
- documentation demonstrating that subsequent to the violation an independent third party certified by ISO 9001 or other certification body acceptable to the Commission, has performed testing of the E-Hail Application and related services to determine that the condition giving rise to the violation has been corrected, and
 - certification by such third party of the successful results of such testing.

§78-18 Business Requirements – Cooperation with the Commission

- (a) Upon request of the Commission, an E-Hail Application Provider must provide at no charge a fully operable device on which the Commission can access the E-Hail Application, and access to the E-Hail Application with requisite Driver and Passenger test IDs.

§78-18(a)	Penalty: \$500 fine and suspension until compliance for each subdivision violated	Appearance REQUIRED
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§78-19 Business Requirements – E-Hail Application Provider Liability for Conduct of Employees

- (a) *Liability for Employee Conduct.* An E-Hail Application Provider must supervise and be responsible for the conduct of all of its employees, contractors, and agents for activities performed to carry out the requirements of this Chapter. For clarity, this subdivision and subdivision (b) of this section shall not be applicable to Drivers, or to individuals or business entities performing work for any E-Hail Application Provider or its subcontractor(s) who under applicable law are deemed to be independent contractors and not employees.

- (b) *Familiarizing Employees with Rules and Regulations.* An E-Hail Application Provider must ensure that all of its employees, contractors, and agents are fully familiar with all relevant regulatory agency rules and regulations.
- (c) *Compliance with Laws.* An E-Hail Application Provider must ensure that all of its employees, contractors, and agents perform their duties in compliance with all relevant federal, state, and city laws, rules, and regulations.

§78-19(a)-(c)	Penalty: \$500 fine and/or suspension up to 60 days or revocation	Appearance REQUIRED
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§78-20 Comply with Laws – Conduct Rules

- (a) *Acceptance of Gift or Gratuity.* An E-Hail Application Provider Licensee or any person acting on his or her behalf must not accept any gift, gratuity, or thing of value from an Owner or Driver of any vehicle licensed by the Commission or from anyone acting on behalf of an Owner or Driver for the purpose of violating any of these rules through acts of commission or omission.
- (b) *Reporting Requests for Gift or Gratuity.* An E-Hail Application Provider Licensee, any person acting on the E-Hail Application Provider’s behalf, or any of the E-Hail Application Provider’s employees must immediately report to the Commission and the NYC Department of Investigation any request or demand for a gift, gratuity, or thing of value by any employee, representative, or member of the Commission or by any public servant.
- (c) *Offer of Gifts and Gratuities.* An E-Hail Application Provider Licensee or any person acting on his or her behalf must not offer or give any gift, gratuity, or thing of value to any employee, representative, or member of the Commission or to any other public servant.

§78-20(a)-(c)	Penalty: \$10,000 fine and revocation	Appearance REQUIRED
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- (d) *Reporting Offers of Gift or Gratuity.* An E-Hail Application Provider Licensee must notify the Commission immediately by telephone and in writing or email within 24 hours after receiving any offer of a gift or gratuity prohibited by subdivision (a) above.
- (e) *Fraud, Misrepresentation and Larceny.* An E-Hail Application Provider Licensee, while performing his or her duties and responsibilities as an E-Hail Application Provider Licensee, must not commit or attempt to commit, alone or in concert with another, any act of fraud, misrepresentation, or larceny. Examples of fraud, larceny, or misrepresentation include, but are not limited to:
 - calibration of a fare other than that set by the Commission;
 - falsification of Trip Data.

§78-20(d)-(e)	Penalty: \$10,000 fine and revocation	Appearance REQUIRED
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(f) *Willful Acts of Omission and Commission.*

- (1) *Omission.* While performing the duties and responsibilities of an E-Hail Application Provider Licensee, an E-Hail Application Provider Licensee must not deliberately fail to perform, alone or with another, any act where this failure is against the best interests of the public, although not specifically mentioned in these Rules.
- (2) *Commission.* While performing the duties and responsibilities of an E-Hail Application Provider Licensee, an E-Hail Application Provider Licensee must not deliberately perform, alone or with another, any act that is against the best interests of the public, although not specifically mentioned in these Rules.

§78-20(f)	Penalty: \$350 and/or suspension up to 30 days or revocation	Appearance REQUIRED
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(g) *Notice of Criminal Conviction.*

- (1) An E-Hail Application Provider Licensee must notify the Commission in writing within two (2) days after any criminal conviction of the E-Hail Application Provider Licensee or any of the E-Hail Application Provider Licensee's Business Entity Persons.
- (2) Notification must be in writing and must be accompanied by a certified copy of the certificate of disposition of the conviction issued by the clerk of the court.

§78-20(g)	Penalty: \$500 and/or suspension up to 30 days	Appearance REQUIRED
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(h) *Threats, Harassment, Abuse.* An E-Hail Application Provider Licensee must not threaten, harass, or abuse any governmental or Commission representative, public servant, or other person while performing his or her duties and responsibilities as an E-Hail Application Provider Licensee.

§78-20(h)	Penalty: \$500 and/or suspension up to 30 days or revocation	Appearance REQUIRED
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(i) *Use or Threat of Physical Force.* An E-Hail Application Provider Licensee must not use or attempt to use any physical force against a Commission representative, public servant, or other person while performing his or her duties and responsibilities as an E-Hail Application Provider Licensee.

§78-20(i)	Penalty: \$500 and/or suspension up to 60 days or revocation	Appearance REQUIRED
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- (j) *Failure to Cooperate with Law Enforcement.* An E-Hail Application Provider Licensee must cooperate with all law enforcement officers and representatives of the Commission at all times.

§78-20(j)	Penalty: \$250 fine	Appearance NOT REQUIRED
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- (k) *Failure to Cooperate with the Commission.* An E-Hail Application Provider Licensee must answer and comply as directed with all questions, communications, notices, directives, and summonses from the Commission or its representatives. An E-Hail Application Provider Licensee must produce his or her Commission License and other required documents whenever the Commission requires.

§78-20(k)	Penalty: \$250 fine and suspension until compliance	Appearance REQUIRED
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§78-21 Technical Requirements – E-Hail Application

No E-Hail Application will be approved by the Commission pursuant to this Chapter unless it complies with the all of the requirements set forth in this section or as such requirements may be waived or modified by the Commission pursuant to §78-05(f) of these Rules.

- (a) *Payment*
- (1) *Credit, Debit, and Prepaid Card Payment.* An E-Hail Application can be capable of accepting credit, debit, and prepaid cards for payment of fares through E-Payment. An E-Hail Application that is capable of accepting credit, debit, and prepaid cards for payment of fares must conform to the following specifications:
- (i) The E-Hail Application must offer the Passenger a receipt in accordance with paragraph (2) of this subdivision; the receipt can be an electronic receipt.
 - (ii) Payment can be initiated at the beginning or made at the end of the trip, in accordance with §75-25(a)(2)(iv) of these Rules.
 - (iii) An E-Hail Application can offer pre-set payment options, including tip percentages, provided that the Passenger is permitted to change the pre-set payment options for a given trip at any time prior to the completion of a trip and payment of fare, including changes to the tip amount.

- (iv) An E-Hail Application cannot require a Passenger to pay a tip to the Driver.
- (2) The E-Hail Application must be able to generate an accurate receipt for payment of fare for fares paid using E-Payment, and the receipt must be offered to the Passenger. Upon the Passenger's request, a receipt either in hard copy form or in electronic form must be transmitted to the Passenger. The receipt must contain all the following information:
- (i) All items required by §75-25(a)(2)(v) of these Rules; and
 - (ii) Any fee paid by the Passenger to the E-Hail Application Provider if paid directly to such Provider, clearly identified. NOTE: §78-15(a) of these Rules governs the payment of tips or gratuities
- (3) Any E-Payment technology used with any E-Hail Application must be integrated into the TPEP or LPEP used by any Driver using the E-Hail Application.
- (4) An E-Hail Application which includes E-Payment must comply with all applicable PCI Standards. Credit, debit, and prepaid card information for electronic payments made through an E-Hail Application must not be stored locally on the electronic device on which the E-Hail Application being used resides, or locally on the TPEP or LPEP (if applicable) after the E-Payment utilizing such credit, debit, or pre-paid card has been authorized or declined.
- (5) An E-Hail Application which includes E-Payment must be capable of generating the following data, regardless of the means of payment:
- (i) reasonably detailed data of individual and cumulative payment transactions (including sufficient detail to support daily and monthly reconciliations and to perform problem resolution);
 - (ii) if the payment is by credit, debit, or prepaid card, in addition to the information in subparagraph (i) above, the name of the credit, debit, or prepaid card, and the name of the credit card merchant engaged by the E-Hail Application Provider; and
 - (iii) data summarizing the number of fares, the total fare amount, and as applicable, the number of credit, debit and prepaid card transactions and the total fares of such transactions;

- (6) The data described in paragraph (5) of this subdivision and its component elements must be stored, maintained and accessible to the Commission and any designee as follows:
 - (i) in a standardized format and layout prescribed by the Commission that is open and non-proprietary; and
 - (ii) by secure file transfer protocol, transfer according to a format, layout, procedure, and frequency prescribed by the Commission.
- (b) *TPEP and LPEP Integration.* An E-Hail Application which includes E-Payment must be integrated with TPEP and LPEP.
 - (1) The E-Hail Application, or its third party designee, must receive the fare and Trip Data automatically from TPEP, LPEP, or Taximeter and must not permit a Driver or anybody else to enter any fare information manually. The E-Hail App also must provide the TPEP or LPEP Provider with the following:
 - (i) The credit card information necessary to process the transaction through the TPEP or LPEP Providers' payment gateway and the amount to be charged for the transaction, including any tip and E-Hail service fee, if included in the amount to be charged; and
 - (ii) Credit, debit, or prepaid card and payment information necessary to allow TPEP or LPEP Providers to display total charges, including time-and-distance fares, tips, extras, surcharges, taxes, and any fees charged by the E-Hail Provider for use of the E-Hail Application on the Passenger Information Monitor and on printed receipts, and allow submission to the Chair of a complete electronic trip record for the fare as further described in subdivision (c) of this section.
 - (iii) Any other functionality, but only if agreed to by the Commission, the E-Hail App Provider, and the TPEP or LPEP Provider.
 - (2) All fares must be calculated by the Taximeter and in accordance with the Rules of the Commission. An E-Hail Application is NOT permitted to make a fare calculation independent of the Taximeter. If an E-Hail Application charges or attempts to charge more than the approved rate of fare calculated by the Taximeter, the Commission will seek revocation of the E-Hail Provider's License and may require the E-Hail Provider to return any overpayment to the Passenger.
 - (3) The Chair, in his or her sole discretion, may waive, in whole or in part, the requirement of this subdivision that an E-Hail App which includes E-Payment be integrated with TPEP or LPEP. To apply for such a waiver, the E-Hail App Provider must submit documentation demonstrating:

- (i) the TPEP or LPEP cannot adequately support integration; and
 - (ii) the E-Hail App Provider has developed means to:
 - (A) Protect Passengers against overcharging;
 - (B) Ensure that all trip related data is reported to the TLC;
 - (C) Ensure that all trip based taxes and fees are collected and remitted to the appropriate parties;
 - (D) If the E-Hail Application would process electronic payment itself or through a third party designee under the terms of the requested waiver, confirm to the Driver that electronic payment for the total fare amount has been successfully processed;
 - (E) If the E-Hail Application would process electronic payment itself or through a third party designee under the terms of the requested waiver, remit to the TPEP or LPEP Provider a fee of no more than \$0.05 per trip paid for by means of E-payment through the E-Hail Application; and,
 - (F) If the E-Hail Application would process electronic payment itself or through a third party designee under the terms of the requested waiver, pay the Driver in cash, pursuant to the terms of Section 58-21(f) of these Rules, the entirety of all fares paid for by means of E-payment through the E-Hail Application without withholding any credit card processing fees or surcharges from the Driver.
- (4) After receipt of a completed request for a waiver pursuant to §78-21(b)(3), the Commission will give any TPEP Provider or LPEP Provider specified in the waiver request a reasonable opportunity to respond to the claims and documents submitted pursuant to §78-21(b)(3)(i) prior to granting a waiver.
- (c) *Trip Data Collection and Transmission.* An E-Hail Application and its third party designee, if any, must be capable of automatically collecting and transmitting E-Hail request data and Trip Data as described below.
- (1) The E-Hail Application and its third part designee, if any, must be capable of automatically collecting and transmitting to the Commission data on all E-Hail requests and the outcome of those requests (including pickup and drop-off locations specified by latitude and longitude), in a format and layout prescribed by the Commission.

- (2) The E-Hail Application and its third party designee, if any, must be capable of automatically collecting and transmitting to TPEP or LPEP the Trip Data required below for all trips using E-Payment made during a shift.
- (i) E-Hail Application License number;
 - (ii) Credit, debit, or pre-paid card type;
 - (iii) first two and last four digits of the credit, debit, or prepaid card used for paying fares;
 - (iv) E-Hail service fee collected by the E-Hail Application Provider, if applicable
 - (v) itemized fare;
 - (vi) tip amount;
 - (vii) E-Hail account holder identifier (uniquely identifying the Driver in the E-Hail Application’s system); and
 - (viii) the number of Passengers that payment of the fare was split among if the E-Hail Application permits the fare to be split.

(d) *Use Restrictions.* An E-Hail Application must conform to the following use restrictions or other specifications:

- (1) The E-Hail Application must not operate:
 - (i) At John F. Kennedy International Airport; and
 - (ii) At LaGuardia Airport;
- (2) The E-Hail Application must not transmit requests for transportation or Hails to any Driver who is not validly licensed to drive a Taxicab or Street Hail Livery or who is operating a Vehicle that does not have a Valid Taxicab License, per the listings on TLC’s Current Licensees webpage.

§78-21(d)(1) and (2)	Penalty: \$400 fine and/or suspension up to 30 days	Appearance REQUIRED
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- (3) The E-Hail Application must be available to a Driver *ONLY* when the Vehicle is standing or stopped, except that an E-Hail App can permit a Driver to accept an E-Hail request with a single touch using pre-programmed buttons or using voice activation while the vehicle is in motion. All other use of the E-Hail Application

must be velocity gated by the E-Hail App Provider to prevent its use while the vehicle is in motion.

- (4) The E-Hail Application must NOT disclose to a Driver any information about a potential Passenger except the Passenger's pickup location, except that a Passenger's trip identification number or E-Hail App user name may be transmitted to the Driver after the Driver has accepted the Passenger's E-Hail request.
 - (5) A Driver must have to affirmatively opt in to use the E-Hail Application and must be able to opt out of receiving E-Hail requests from Passengers while on duty.
- (e) *Wheelchair Accessibility.* The E-Hail Application must make a wheelchair accessible option available to allow requesting Passengers to indicate that they would like a wheelchair accessible vehicle.
- (1) E-Hail App Providers must not charge more for a wheelchair accessible E-Hail than for a non-wheelchair accessible E-Hail.
 - (2) The E-Hail Application must check the Driver's training status before allowing a Driver to log into the E-Hail App using an Accessible Taxicab medallion number or Accessible Street Hail Livery permit number (per the listings on TLC's Current Licensees webpage). Drivers that have not completed the appropriate training specified by the Commission must not be able to log into the E-Hail App using an Accessible Taxicab medallion number or Accessible Street Hail Livery permit number.
 - (3) The E-Hail Application must be able to provide reporting to the TLC as to whether a particular request was for a wheelchair accessible vehicle.
- (f) *Security.*
- (1) If the E-Hail Application provides for E-Payment, all features of the E-Hail Application related to E-Payment required by this section, including the collection, transmission and maintenance of data by the E-Hail Application Provider, must conform to applicable PCI Standards.
- (g) *Data Retention.* All data required to be collected, transmitted and maintained pursuant to this section must be maintained for at least three (3) years.