

Notice of Appointment as an Inspecting Organisation

Under clause 2.2(1) of the Land Transport Rule: Vehicle Standards Compliance 2002

- 1 [Name of Inspecting Organisation] (**Organisation**) is appointed as an inspecting organisation to carry out heavy entry inspection and certification (**Activities**).
- 2 The Organisation's appointment starts on [Start Date, eg 1 July 2020] and ends [End Date, eg 30 June 2025].
- 3 The Organisation's appointment is subject to the requirements and conditions contained in the following schedules, which may be amended by the Agency from time to time with reasonable notice.
 - (a) Schedule One: General requirements and conditions of appointment.
 - (b) Schedule Two: Specific requirements and conditions of appointment.

Dated: [DATE OF APPOINTMENT]

Signed for and on behalf of Waka Kotahi NZ Transport Agency

[APPROVED PERSON]

Manager Provider Licensing

Schedule 1 – General Requirements and Conditions relating to Heavy Vehicle Entry Inspection and Certification

Version: 1

Effective date: [Effective Date]

1 Discretionary regulatory appointment

- 1.1 The Organisation must carry out the Activities in accordance with the following (as they may be amended or replaced from time to time):
- (a) Land Transport Rule: Vehicle Standards Compliance 2002 (**Vehicle Compliance Rule**);
 - (b) Notice of Appointment and attached Schedules;
 - (c) Guidelines issued by the Agency, including the Vehicle Inspection Requirement Manuals (**VIRM**);
 - (d) Any other applicable legislative requirements, including the Health and Safety at Work Act 2015.
- 1.2 If there is any discrepancy between the above documents, the Organisation is to comply with legislative requirements first (ie the Vehicle Compliance Rule and other legislative instruments). Any discrepancy identified must be reported to the Agency as soon as possible.
- 1.3 If the Agency is satisfied that the Organisation has failed to comply with any of the conditions of their appointment, it may take any of the following actions in accordance with clause 3 of the Vehicle Compliance Rule:
- (a) Require that remedial action be undertaken by the Organisation;
 - (b) Suspend the whole or any part of this Appointment for a specified period or until specific conditions are met; or
 - (c) Revoke the whole or any part of this Appointment.
- 1.4 The Agency may, in its discretion and applying the Vehicle Compliance Rule, extend this Appointment based on the Agency's assessment of the Organisation's performance under this appointment and suitability for such an extension.
- 1.5 The Agency may also amend, suspend or revoke this Appointment if there has been a change of circumstances that would have materially affected the Agency's assessment of the Organisation's application for appointment (including, for example, a change in the applicable law).
- 1.6 Nothing in this Notice of Appointment or attached Schedules limits the powers of the Agency under any legislation or the Vehicle Compliance Rule.

2 Sites at which the Activities may be carried out

- 2.1 The Organisation may only carry out the Activities at the sites specified in Schedule Two.
- 2.2 The Organisation may apply to the Agency for an additional site to be approved and added to Schedule 2 using the application process specified by the Agency.
- 2.3 The Organisation must ensure that each site at which it carries out the Activities meets the technical standards specified by the Agency, including in the VIRM (whether or not the Organisation owns the facilities).

3 Reliance on the application for appointment and ongoing obligation to inform Agency

- 3.1 The Agency relied on the information provided in Organisation's application for appointment and will continue to rely on that information.
- 3.2 The Organisation must advise the Agency, on an ongoing basis and as soon as reasonably practicable, if:
 - (a) any of the circumstances or information contained in the Organisation's application for appointment change in any material respect, including in relation to the ownership of the Organisation (whether those changes take place in New Zealand or not);
 - (b) there is any change of circumstances that could affect the Agency's assessment of the Organisation's:
 - (i) ability and competence to undertake inspection and certification activities;
 - (ii) arrangements for public liability insurance and professional indemnity insurance;
 - (iii) degree of financial or professional interest in importing or selling vehicles or vehicle parts, or in modifying or repairing vehicles;
 - (iv) arrangements for monitoring and reviewing its performance;
 - (v) quality assurance arrangements and performance management systems.
 - (c) the Organisation or any person in control of the Organisation is charged or convicted with a criminal offence, is convicted of any transport-related offence (including any infringement offence), or is subject to any serious complaint relating to the inspection service;
 - (d) the Organisation is subject to any legal claim relating to the performance of its services;
 - (e) the Organisation starts or ceases carrying out the Activities at any site;
 - (f) the Organisation has any reason to believe that an inspection and certification of a vehicle has been carried out incorrectly; or

- (g) the Organisation has become aware of a defect in a manufacturer's production run or quality control process that may affect the safety performance of a vehicle that has been inspected and certified.

4 Recording information about inspection and certification activities

- 4.1 The Organisation must keep, for a period of 10 years or as otherwise specified by the Agency, all records and associated documents relating to vehicle inspection and certification activities conducted (which includes a record of each inspection or certification decision). These records may be kept in a physical or electronic format if there are suitable back-up arrangements in place.
- 4.2 The Organisation must maintain an electronic database that records information about each inspection and has the following minimum functionality:
 - (a) unique logins and auditability of changes;
 - (b) retains and provides access to a record of the outcome of each inspection decision; and
 - (c) provides the ability to search and access inspection outcomes by date range, vehicle inspector and customer.

5 Reporting, monitoring and audit

- 5.1 The Organisation must provide the Agency with any reports that are required from time to time by the Agency. Additionally, the Agency requires that the Organisation submit a report at the end of each calendar quarter which includes the following information:
 - (a) Information about each inspection or certification decision in the format contained in Appendix D.
 - (b) Inspection error rates, types and causes of errors.
 - (c) Patterns or trends detected and action taken on these.
 - (d) A management review of the past three months, and management comment of what is anticipated in the coming period.
 - (e) Complaints received, how they were resolved and the timeframes for resolution.
- 5.2 The Agency will monitor and review the performance of the Organisation, including at individual sites. The Agency may:
 - (a) Audit and inspect the Organisation's activities at any of its sites on an announced or unannounced basis.
 - (b) Re-inspect any vehicle inspected or certified by Organisation.
 - (c) Request that the Organisation inspect a vehicle through a "mystery shopper". This will involve an undisclosed (undercover) Agency representative using the Organisation's inspection services to test the Organisation's performance.

- 5.3 The Organisation must facilitate and co-operate with the Agency's monitoring and review activities, including by complying with any Agency request for information. If required for the purpose of an audit, the Organisation must grant the Agency immediate access to any inspection site and to any vehicle in its possession. The Organisation must ensure that its commercial arrangements with the owners of sites and / or vehicles enable it to provide the Agency with such immediate access.
- 5.4 The Organisation must provide annual declarations to the Agency that it remains in compliance with this appointment and other Agency requirements.

6 Fit and proper

- 6.1 The Organisation must continue to be a fit and proper person.
- 6.2 The Organisation must ensure that the Key Personnel involved in the Activities (including Controlling Personnel, Management Personnel, Vehicle Inspectors and VIN Personnel), are fit and proper persons to fulfil their respective role. If the Organisation hires (or contracts with) any new Key Personnel, it must as soon as reasonably practicable provide the Agency with a copy of a fit and proper declaration from that person in the form specified by the Agency.
- 6.3 The Organisation must ensure that the controlling persons and managers at each third party site at which the Organisation carries out the Activities are fit and proper persons to fulfil their respective roles.
- 6.4 The Organisation must provide annual declarations to the Agency that it, its Key Personnel, and the controlling persons and managers at each third party site at which the Organisation carries out the Activities, remain in compliance with fit and proper requirements.

7 Insurance

- 7.1 The Organisation must maintain continuous public liability and professional indemnity insurance:
- (a) in the Organisation's name;
 - (b) for liability that may arise in relation to the provision and performance of the inspection activities; and
 - (c) to a minimum level of cover of \$5 million per claim, with an excess no greater than \$20,000 per incident.
- 7.2 The Organisation must provide the Agency with proof of its insurance cover annually on or before the anniversary of the Appointment.

8 Competence and vehicle inspectors

- 8.1 The Organisation must remain highly competent at managing and undertaking inspection and certification activities.
- 8.2 The Activities must be carried out by vehicle inspectors on behalf of the Organisation who have been appointed to carry out the Activities by the Agency and have accepted the Vehicle Inspector Code of Conduct specified by the Agency.]

- 8.3 The Organisation must maintain and operate, to a standard satisfactory to the Agency, competent management systems relating to the following matters.
- (a) training and maintenance of the skill base of inspectors, including ensuring that vehicle inspectors have the necessary appointments, qualifications, supervision and current competence to undertake their tasks;
 - (b) management of inspectors and the inspection process;
 - (c) performance assessment;
 - (d) provision of temporary staff and contracts;
 - (e) complaints management;
 - (f) internal auditing; and
 - (g) support functions.

9 Management of conflicts of interest and other inappropriate influences

9.1 The Organisation must:

- (a) carry out the Activities honestly, conscientiously and to the highest standards of integrity.
- (b) ensure no favour or inducement that is intended (or may reasonably be construed as intended) to compromise the integrity of the Activities is accepted, given or promised.
- (c) immediately notify the Agency where it becomes aware of any possible violations of this Notice or the Vehicle Compliance Rule.

9.2 The Organisation must maintain and operate, to a standard satisfactory to the Agency:

- (a) a robust risk management framework and control environment for identifying and managing risks to the integrity of inspections, including arising from conflicts of interest or corruption.
- (b) functional separation between the Activities and any other activities involving vehicles to the standard outlined in its application for appointment (or as later required by the Agency).

9.3 The Organisation must not inspect or certify any vehicle that it or a related entity has a financial or ownership interest in unless, with the approval of the Agency, it has in place a transparent and robust system to negate any real or perceived conflict of interest and to ensure an accurate inspection of the vehicle is undertaken, and the Organisation complies with the specific conditions of appointment in Schedule 2.

10 Quality assurance system

10.1 The Organisation must operate a Quality Assurance system that is approved by the Agency.

- 10.2 The Organisation's compliance with its Quality Assurance system must be independently audited at least every 2 years and the Organisation must provide the Agency with a copy of any audit report not undertaken by the Agency.

11 Health and safety

- 11.1 The Organisation is responsible for ensuring it carries out its Activities in a safe and healthy manner. The Organisation must ensure that it:
- (a) understands its duties as a PCBU under Health and Safety at Work Act 2015 (**HSWA**);
 - (b) has an appropriate health and safety management system that enables it to manage risks in accordance with the requirements of HSWA;
 - (c) has identified hazards and risks relevant to the provision of the Activities;
 - (d) has systems and measures in place to control the identified hazards and risks;
 - (e) can demonstrate its ability to provide the Activities in a safe and healthy manner;
 - (f) informs the Agency if it considers that any aspect of the conditions of appointment, or the VIRM, creates a health or safety risk that could be avoided.

12 Delegation

- 12.1 The Organisation must not delegate any of its functions or duties under this Appointment (including any part of the Activities that involve independent judgement) without the consent of the Agency.

13 Use of the Agency's information

- 13.1 The Organisation must not use or share any information made available by the Agency's systems for any purpose other than undertaking the Activities.
- 13.2 The Organisation must not use the Agency's brand, logo or name in connection with its business except with prior written consent of the Agency.

14 Collection of fees

- 14.1 The Organisation must collect and pay to the Agency in a timely manner any fees relating to the Activities required under the Land Transport (Certification and Other Fees) Amendment Regulations 2002, plus any levy specified by the Agency.

15 Start date

- 15.1 The Organisation must start delivering the Activities no later than 3 months from the date of appointment.

16 Engagement with Agency

- 16.1 The Organisation must, as a condition of their appointment, contribute to Agency-led industry forums and other initiatives aimed at addressing issues within the heavy vehicle entry inspection and certification sector.

Schedule 2– Specific Requirements and Conditions relating to Heavy Entry Inspection and Certification for [Name of Organisation]

Version: 1

Effective date: [Effective Date]

17 Sites

17.1 The Activities are authorised to be carried out at the Sites listed in the table below subject to the exceptions noted for specific sites.

| NZTA Ref | Town | Street Address (including Company name) | Activity | Exceptions |
|----------|-----------------|---|----------|------------|
| AUTH NO | ADDRESS TOWN | TRADING NAME ADDRESS LINE 1 ADDRESS LINE 2 ADDRESS SUBURB ADDRESS TOWN | | |

17.2 For each site above identified as a third-party site, the Organisation must provide the Agency with a copy of a Code of Conduct, satisfactory to the Agency, signed by the person in control of the site. The Organisation must inform the Agency if there are any changes to the person in control of the site.

18 Other specific conditions

[May be inserted for each Organisation, eg relating to any specific requirements relating to conflict of interest management]