



TAMIL NADU NATIONAL LAW SCHOOL, TIRUCHIRAPPALLI
(A State University Established by Act No. 9 of 2012)

PRESENTS

TNNLS – CCI NATIONAL MOOT COURT COMPETITION

FEBRUARY 2 – 4, 2018

MOOT PROPOSITION



KNOWLEDGE PARTNERS



Moot Proposition*

1. The *Republic of Kratos* is a developing country with the second highest population in the world. The country has a Federal form of Government comprising 29 States, which is demographically divided into *North Kratos* and *South Kratos* with distinct social, cultural and economic background. The founders of the *Republic of Kratos* envisaged Kratos to be a sovereign, secular, democratic and socialist nation which is reflected in the *Constitution of Kratos, 1950* (hereinafter, '*Kratotian Constitution*'). However, in the last decade of 20th Century, in response to globalisation, Kratos opened up its economy, removing controls and adopted liberalisation policies. The natural corollary of this *Liberalisation, Privatisation & Globalisation* (LPG) model was that the Kratotian market started to face increased competition from both local as well as international players in various sectors.
2. One of the sectors, which have undergone substantial changes since the late 1990's, is the Kratotian '*Cab*' or '*Taxi*' industry. In the pre-liberalisation era, which existed up to the year 2000, the Taxi industry was characterised by restricted entry of new players, a fragmented administrative structure, as well as diversity in taxi fare structures and levels across the country. The post-liberalisation period saw the removal of all entry barriers to the market, but the fragmented administrative and fare structures were retained.
3. By the end of the first decade of the 21st Century, Kratotian cab market witnessed a sea change. With rapid advancement in the Information Technology sector, the youth of Kratos have reduced usage of traditional taxi services like '*call out cabs*'. Instead, most of them prefer booking cabs through mobile applications. Moreover, with ever increasing traffic troubles

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and lack of efficient and time bound public transport systems, the demand for cab aggregators is fast growing in Kratos. The consumer demand is especially high in metropolitan cities and towns. As a result, Kratos is now on the cusp of becoming a discerning market for cab aggregators.

4. *BuzzCars*, a US based Company founded in the year 2009, is considered to have brought up a paradigm shift in the app-based cab aggregator model and has substantial shares in the cab market in most of the countries in which it operates. *Way2Go* is a Kratolian Company, which has a major share in the app-based cab aggregator market in Kratos. *Way2Go* and *BuzzCars* started its operations in the northern part of Kratos in 2011 and 2013 respectively.
5. *Way2Go* offers eight different services from which the customer can choose – ‘*Way2Go Auto, Share the Fare, Micro Car, Jumbo Ride, Prime Time, Luxury Car, Regular Rental and Way2Outstation*’. Similarly, *BuzzCars* offers the following services – ‘*Buzz Bike Taxi, Buzz Go, Buzz X, Buzz XL, Buzz Luxury, Buzz Hire and Buzz Long Rides*.’ Currently, both the Companies operate in almost all major cities and towns in northern Kratos. With the rapid rise of app-based taxi services, many indigenous and traditional taxi operators in North Kratos have seen a rapid downfall in bookings and they claim that these Companies have directly affected their consumer bases, who now prefer modern taxi services, which are cheaper, quicker and efficient.
6. In fact, *Way2Go* today is one of the hottest ‘unicorn’ in North Kratos, valued at close to 5 billion USD, while *BuzzCars* is ruling the roost globally, valued at a whopping 60 billion USD. Over the past few years, *Way2Go* and *BuzzCars* have locked horns to conquer the Kratolian cab market. The Companies together enjoy substantial share in the northern Kratos and they now intend to expand the operations in the southern region. In contrast to the northern region, which is dominated by online cab aggregators, the cab market in

Southern Kratos is marked by the presence of multifarious local taxi service providers and independent cab owners, who enjoy substantial presence in the market, which is not completely explored by the app-based taxi service providers.

7. For the purpose of expansion, *Way2Go* and *BuzzCars* have already ramped up their South Kratolian Research & Development (R&D) centres. Ms. Nikki Stark, VP (Recruitment) at *BuzzCars*, speaking at an event added that the focus of the Company is to recruit greater engineering talent and attract drivers and technicians from the southern region. The Companies as part of their business expansion raised substantial amounts of funds from both domestic as well as foreign investors. According to a news report in '*The Kratolian*', a leading news daily, *Way2Go* has raised 1.6 billion USD and has its eyes set on the southern market, while *BuzzCars*, has raised 1.4 billion USD for the purpose of expansion.
8. *South Deccan Taxi Union (SDTU)* is an association of trade unions registered under the *Trade Unions Act, 1926* (hereinafter, '*TU Act*') comprising various trade unions of indigenous taxi service providers and independent taxi owners operating in South Kratos. *SDTU* is committed to a vibrant and respected taxi industry across Kratos by giving all taxi owners a medium to voice their concerns at all levels of governmental decision making and to reconcile any difference between the member unions. *SDTU* further intends to work with all Taxi Unions across Kratos for many reasons, which include improvement in standard of service by sharing best practices information from proven operators in various aspects of their business model, introducing new technology to enhance business and deliver consistent customer services across South Kratos.
9. After the announcement of the expansion plans by *Way2Go* and *BuzzCars*, *SDTU* is concerned about the arrival of the app-based cab aggregators, as the Union feels that the entry of these two players would destroy the traditional taxi market in South Kratos, which

the Union seeks to protect and uplift. *SDTU* also feels that the local taxi service providers and the independent taxi owners would suffer drastically by the entry of these firms and they may even lose their livelihood in the long run, which is evident from such experiences in the northern market.

10. As a move to protect the interest of its members, *SDTU* decides to boycott *Way2Go* and *BuzzCars*. The Union passed a resolution stating “*in the interest of preservation and healthy growth of indigenous taxi service providers & independent taxi owners in the Southern Kratos region, SDTU hereby directs that no member of the Union would be part of operations of either of the Companies and any member who decides to be a part of any of these Companies, shall risk losing their membership with the Union.*”

11. The decision of boycott by *SDTU* has drastic effects on the expansion plans of *Way2Go* and *BuzzCars*, as their existing business took a hit, because of the drastic fall in share prices. Aggrieved by the action of *SDTU*, both the Companies file separate complaints with the *Competition Commission of Kratos (CCK)*, the fair market regulator established under the *Kratotian Competition Act, 2002 (hereinafter, ‘Competition Act’)* alleging that the resolution passed by *SDTU* creates entry barriers to the Companies. It was further alleged that the overall actions of *SDTU* amounts to anti-competitive conduct and abuse of dominance prohibited under Sections 3 and 4 of the *Competition Act* and therefore the Companies claimed compensation from *SDTU*.

12. *South Kratotian Taxi Drivers Association (SKTDA)* is an association of taxi drivers registered under the *Societies Registration Act, 1860*. The membership of the association is restricted to individual drivers who work with various taxi service providers, independent cab owners who are self-employed as well as call drivers. The primary objective of the association is to

further the interests of the drivers and to intercede on their behalf in dealing with regulators and governments, as well as to resolve all labour related issues pertaining to the taxi industry.

13. Unlike *SDTU*, *SKTDA* is of the opinion that the proposed entry of *Way2Go* and *BuzzCars* would greatly benefit the members of the association by providing them with greater employment opportunities and increased access to customers, who so far have no access other than the traditional taxi services. Mr. Bala Sankar Krower, the President of *SKTDA* in a press conference commented “*the arrival of cab based aggregators is a welcome move, as it would lead to huge increase in demand for the drivers of South Kratos, which in turn would fetch them higher rates of income and some kind of job security.*”
14. If the expansion becomes a reality, *SKTDA* feels that it will receive a huge fortune, since it would be exposed to a new market. Hence, it held a meeting to discuss the future course of action which saw an overwhelming attendance of about 79% of its members. The association also decided to hold a meeting with *SDTU* to resolve the current conflict of opinion, which eventually failed. Aggrieved by the decision of *SDTU* to boycott *Way2Go* and *BuzzCars*, *SKTDA* called for a peaceful strike by taxi drivers, whereby the drivers would no longer drive the taxis owned by the members of *SDTU* as a mark of protest. As a result of the strike, taxi services in South Kratos came to a standstill and there was a massive supply crunch, which greatly affected the routine life of the taxi commuters.
15. When the individual complaints by *Way2Go* and *BuzzCars* against *SDTU* came up for hearing, *CCK* decided that the information contained in the both the complaints were substantially similar and therefore decided to club the cases together. *SKTDA* also decided to be a part of the ongoing dispute between *Way2Go*, *BuzzCars* and *SDTU*. Therefore, the association filed an impleadment application before *CCK*, which was accepted by the Commission and *SKDTA* was impleaded as one of the parties to the proceedings.

16. *SDTU* made a preliminary objection before *CCK* that it was not an ‘enterprise’ or an ‘association of enterprises’ under Sections 3 and 4 of the *Competition Act* and was therefore not amenable to the jurisdiction of the Commission. *SDTU* contended that its actions were legitimate and entirely protected under the *Kratotian Constitution* as well as the *TU Act*. In any event, *SDTU* submitted that the decision to boycott *Way2Go* & *BuzzCars* was not an ‘agreement’ and the decision did not amount to creation of trade barriers under the *Competition Act*. *SDTU* further filed a counter information against *SKDTA* alleging that the call for strike by the trade association was wholly an anti-competitive conduct, and hence was against the interest of the consumers. *SDTU* also contended that in any event, the actions of *SKDTA* were not protected under the *TU Act*. In turn *SKDTA* countered that *SDTU* was a ‘sham’ union and it could not justify its actions under the *TU Act*. *CCK* agreed with the contentions of *SDTU* and held that the Commission does not have jurisdiction over it. *CCK* further held that *SKDTA* is liable for an anti-competitive cartel agreement under Section 3 of the *Competition Act* and held that the actions of the association was not protected under the *TU Act*.
17. *Way2Go*, *BuzzCars* and *SKDTA* filed an appeal challenging the order of *CCK* in *National Company Law Appellate Tribunal (NCLAT)*, an appellate body established under the *Kratotian Companies Act, 2013* (hereinafter, ‘*Companies Act*’). After hearing the contentions, *NCLAT* reversed the order passed by *CCK*. It held that the dispute is justiciable under the *Competition Act* and *CCK* erred by failing to exercise jurisdiction over *SDTU*. *NCLAT* further held that the resolution passed by *SDTU* amounted to anti-competitive practice and was against the spirit of free competition in the market. As *SDTU*’s actions contravened both Sections 3 and 4 of the *Competition Act*, *NCLAT* passed a cease and desist order and also imposed a penalty. *SDTU* filed an appeal before the *Supreme Court of Kratos (SCK)* challenging the order of *NCLAT*. The appeal is admitted and the matter is posted for hearing on merits (*Civil Appeal No. 007 of 2017*).

18. In the meanwhile, certain news agencies reported that *Way2Go* and *BuzzCars* have been planning to extend their wings together to the fullest possible extent throughout Kratos. The news reports speculated that officials of both the Companies have started to meet regularly to discuss and conceptualise the best practices method, in order to reap maximum benefits from the Kratotian cab market. These meetings resulted in widespread rumours among other taxi service providers regarding a possible cartel forged between the two major cab giants, as they would further lower their price through different incentives to customers. Many taxi service providers reckoned that the Companies might acquire substantial market share all over Kratos, thereby leading to the Companies' dominance, which in turn will cause a heavy dent in their business profits. They also feared that the issue might snowball into a larger problem, whereby they will be eventually driven out of the market, due to the combined power of *Way2Go* and *BuzzCars*.

19. *Travel on Time (ToT)*, a prominent player in the Kratotian cab market is considered to be a rival alternative to both *Way2Go* and *BuzzCars*. *ToT* decided to file information with *CCK* regarding the alleged cartelisation between the cab giants. *CCK* on the basis of the said information, ordered the *Director General (DG)* to investigate the matter, as the Commission was of the considered opinion that there existed a *prima facie* case of cartelisation. *DG* in his investigation identified five markets (See *Annexure 3 Part II*). The *DG* also found that the executives of both the Companies had been meeting regularly. The difference between the prices offered by the Companies for each of their services was a maximum of KK (*Kratotian Kredit*) 3 per k.m. before the meetings. Immediately following the meetings, difference in pricing reduced (in Hatchback, Sedan and SUV segments) to KK 0.8 per k.m. Based on the above observation, the *DG* came to the conclusion that the Companies have formed a cartel in contravention of Section 3 of the *Competition Act*.

20. During the hearing before the Commission, both the Companies unanimously submitted that the talks referred in the *DG's* report were mere merger talks and the Companies had no agreement regarding the fixation of prices or the pricing scheme. *CCK* rejected these submissions and concurred with the report of the *DG*. It held that the two Corporations have entered into a cartel and have violated Section 3 of the *Competition Act*. *CCK* therefore ordered the Companies to immediately cease their meetings and further imposed a penalty of 7% on their '*total turnover*', i.e., KK 20.67 Crores and KK 18.73 Crores on *Way2Go* and *BuzzCars* respectively (See *Annexure 3 – Part I*).
21. Aggrieved by the order of *CCK*, *Way2Go* and *BuzzCars* appealed before *NCLAT* contending that *CCK* had misconstrued merger talks as cartelisation. The Companies contended that the Commission overlooked the important fact that both *Way2Go* and *BuzzCars* have taken all reasonable steps and complied with due diligence requirements to protect their pricing policies as well as price sensitive information. Therefore, they could not have possibly entered into a cartel without disclosing those details (See *Annexure 4 – 'Clean Team Confidentiality Agreement'* between *Way2Go* and *BuzzCars*, dated 23rd June, 2017). The Companies vociferously argued that all the joint meetings relied upon by the *DG* in his report were only conducted in furtherance of a possible merger and the same took place in the ordinary course of business. In any event, the Companies argued that the merger talks had no direct bearing on the pricing and thus did not amount to cartelisation.
22. Alternatively, *Way2Go* and *BuzzCars* also contended that *CCK* grossly erred in defining the '*relevant market*' by disregarding the variations in the services provided by the traditional taxi service providers and the app-based cab aggregators. It was further argued that the penalty could be imposed only on the '*relevant turnover*'. Hence, *CCK's* decision to calculate penalty from the total turnover of the Companies was legally unsustainable.

23. *NCLAT* agreed with the various contentions put forward by *Way2Go* and *BuzzCars*. It held that reasonable, practicable and diligent steps were taken by both the Companies to ensure that the pricing policies were not divulged. Moreover, the talks under scrutiny were mere merger talks that took place during the usual course of business and there was no case for cartelisation. Consequently, *NCLAT* also set aside the penalty imposed by *CCK*.

24. *ToT* and *CCK* preferred an appeal against the order of *NCLAT* in the *Supreme Court of Kratos*. After the preliminary hearing, *SCK* decided to club this case along with *Civil Appeal No. 007 of 2017*. The Apex Court framed the following issues to be determined and has posted the matter for hearing on 3rd February, 2018:

- I. Whether *CCK* has jurisdiction over the activities of Trade Unions and Trade Associations like *SDTU* and *SKDTA*?
- II. Whether the actions of *SDTU* and *SKDTA* can be justified by invoking the provisions of the *Kratotian Constitution* and the *TU Act*?
- III. Whether the actions of *SDTU* amount to anti-competitive conduct and abuse of dominance prohibited under Sections 3 and 4 of the *Competition Act*?
- IV. Whether the proposed merger talks by *Way2Go* and *BuzzCars* amount to a cartel in violation of Section 3 of the *Competition Act*?
- V. Whether *CCK* erred in determining the ‘relevant market’ and ‘relevant turnover’?

Note:

- i. The Moot Proposition is purely fictional. Resemblance of any kind to any person (living or dead), name, company, property, union, association or organisation etc. is purely coincidental.

- ii. The proposition is a fictitious factual account prepared for the purposes of the present moot competition only, and as such it does not attempt to influence or predict the outcome of any matter whatsoever.
 - iii. The problem is set in the fictional *Republic of Kratos*, whose Constitution, laws and currency are in *pari materia* with that of the *Republic of India*.
 - iv. The *Supreme Court of Kratos* is the Apex Court of the *Republic of Kratos* and is equivalent to the *Supreme Court of India*. The *Competition Commission of Kratos* is equivalent to the *Competition Commission of India* and the *National Company Law Appellate Tribunal (NCLAT)* of Kratos is equivalent to the *NCLAT* of India formed under the *Indian Companies Act, 2013* (as amended by the *Finance Act, 2017*).
 - v. The Judicial decisions of India have a binding value on the Courts and Administrative Tribunals in Kratos and any other decisions from other jurisdictions merely have a persuasive value alone.
 - vi. The Participants are at liberty to add any other issue or address any argument over and above the issues given in the Moot Proposition, which they feel might be relevant and necessary for the adjudication the dispute.
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Annexure 1 – News Report

TAXI RATES TO DROP!

By Raghul Vaidya
Thilipisiri City, South Kratos
APRIL 01, 2017 05:23 UTC

Way2Go and BuzzCars, two names that have become the lifeline of most people in North Kratos, who do not have access to their own modes of transportation or have become tired with the inefficient state transportation, have finally decided to expand their foray into the southern part of the Kratos. Along with the urban market, in order to make an immediate impact in the southern region, both the operators, if the reports are to be believed, are trying to deploy more services in the rural mid-sized towns in South Kratos, which is generally an untapped market for online cab aggregators.



Their popularity may seem marvellous to the common man of South Kratos who has never seen the difference between a local taxi service and the foreign multinational giants. Vehicles used in traditional taxi services are generally owned by the organisation itself. What Way2Go and BuzzCars did in North Kratos, was tap into a never before used resource, which was readily available, i.e., any person owning a vehicle who falls into the criteria set down by the Companies, may register as a driver for Way2Go or BuzzCars. Further, it helps those individuals who own extra cars or who are interested in part time driving jobs to earn extra income by registering their cars with these Companies.

This simple change in strategy resulted in a massive drop in overhead prices for the Companies themselves, which ultimately resulted in reduced pricing for the end consumer. Although seen as irksome by most private taxi service owners, they are hailed as saviours by most daily commuters, because of efficient, cheaper, and comfortable services provided by them. Thus, online cab aggregators so far has followed a simple success formula in North Kratos and they are sincerely hoping to repeat the success in the southern region also.

Annexure 2 – News Report

THE KRATOTIAN

BUZZ CARS AND WAY2GO LOCK HORNS FOR EDGE IN THE SOUTHERN MARKET

Taarun Ajaad at Ubilipisiri City, South Kratos

2nd April 2017, 09:23 UTC



The leading online cab aggregator giants BuzzCars and Way2Go have recently announced that the Companies would be expanding their operations to southern part of Kratos. According to the Vice President (Recruitment) of BuzzCars, Ms. Nikki Stark, *“BuzzCars ultimate dream to provide affordable and easy access cab services throughout Kratos is finally coming to a reality. Our immediate focus is to recruit greater engineering talent, technicians and drivers from the southern region. We are planning to expand the operations to several urban and semi urban areas in South Kratos and for this purpose we have raised around 1.4 billion USD so far.”*

On a similar vein, Ms. Singa Ruchy, Vice President and Business Head at Way2Go commented that *“Way2Go has successfully completed 6 years of operation in the northern region and as a part of our current business strategy, we are passionately planning to expand the operations to another 10 cosmopolitan cities and 15 more towns in the Southern Kratos.”* It is learnt from reliable sources that Way2Go has raised 1.6 billion USD for its ambitious expansion drive.

The following statistics prove that the app based aggregator companies usually enjoy dominance over the market in which they operate and the traditional taxi operators have very

minimal business in those markets. According to the report by *AutomobileNews*, the market share of BuzzCars and Way2Go as on April 2017 is as follows:

	BuzzCars	Way2Go
<i>Number of Vehicles Registered on Platform</i>	2,50,000	4,50,000
<i>Number of Cities Where Service is Provided</i>	26	102
<i>Global Valuation of the Company</i>	60 Billion USD	5 Billion USD
<i>Market Share (In markets where they operate)</i>	50%	70%
<i>Number of Employees</i>	300	8,000

The statistics prove that BuzzCars and Way2Go have enjoyed tremendous success in most of the markets where they operate and their success invariably brings down the presence of the traditional cab service providers substantially. Accordingly, the expansion move by the Companies is expected to have a huge impact on the cab market in South Kratos which is generally known for indigenous and traditional taxi service providers. South Kratos is also famous for its strong trade union movements and it would be interesting to see whether the various taxi unions and independent taxi associations of South Kratos will oppose the move by the cab giants.

Annexure 3 – Excerpts from CCI Order

PART I – Penalties

Hatch Back Cab Segment[†]

S.No.	Name of the Parties	Relevant Turnover for the year 2014-2015	Relevant Turnover for the year 2015-2016	Relevant Turnover for the year 2016-2017	Average Relevant Turnover for the past three years
1	Way2Go	73	85	88	82
2	BuzzCars	69	72	74	71.67

Sedan Cab Segment[‡]

S.No.	Name of the Parties	Relevant Turnover for the year 2014-2015	Relevant Turnover for the year 2015-2016	Relevant Turnover for the year 2016-2017	Average Relevant Turnover for the past three years
1	Way2Go	88	92	98	92.67
2	BuzzCars	79	85	89	84.33

Luxury Cab Segment[§]

S.No.	Name of the Parties	Relevant Turnover for the year 2014-2015	Relevant Turnover for the year 2015-2016	Relevant Turnover for the year 2016-2017	Average Relevant Turnover for the past three years
1	Way2Go	45	57	63	55
2	BuzzCars	43	56	67	55.33

SUV Cab Segment^{**}

[†] Micro Car and Buzz Go.

[‡] Prime Time and Buzz X.

[§] Luxury Car and Buzz Luxury.

^{**} Jumbo Car and Buzz XL.

S.No.	Name of the Parties	Relevant Turnover for the year 2014-2015	Relevant Turnover for the year 2015-2016	Relevant Turnover for the year 2016-2017	Average Relevant Turnover for the past three years
1	Way2Go	35	37	41	37.67
2	BuzzCars	29	32	35	32

Out Station Segment^{††}

S.No.	Name of the Parties	Relevant Turnover for the year 2014-2015	Relevant Turnover for the year 2015-2016	Relevant Turnover for the year 2016-2017	Average Relevant Turnover for the past three years
1	Way2Go	24	29	31	28
2	BuzzCars	22	24	27	24.33

(KK) (In crore)

S.No.	Name of the Parties	Relevant Turnover for the year 2014-2015	Relevant Turnover for the year 2015-2016	Relevant Turnover for the year 2016-2017	Average Relevant Turnover for the past three years	@ 7% of average relevant turnover
1	Way2Go	265	300	321	295.33	20.67
2	BuzzCars	242	269	292	267.67	18.73

PART II – Excerpts from DG’s Report (Observations on Relevant Market)

Pricing Scheme KK Per Km. (General Conditions)

S.No.	Name of the Parties	Hatch Back	Sedan	SUV	Luxury	Outstation
1	Way2Go	10.8	14	16	22	250/day
2	BuzzCars	11.6	14.5	16.3	34	400/day

^{††} Way2Outstation and Buzz Long Rides.

Annexure 4 – Clean Team Confidentiality Agreement

**CLEAN TEAM CONFIDENTIALITY AGREEMENT DATED 23RD JUNE 2017 BETWEEN
AND AMONGST WAY2GO LTD. AND BUZZCARS INDIA LTD.**

This **Clean Team Confidentiality Agreement** (“**Agreement**”) is made in *Kuttapattu City* on this the 23rd day of June 2017, by and between:

1. **Way2Go Ltd.**

AND

2. **BuzzCars India Ltd.**

Way2Go Ltd. and BuzzCars India Ltd. shall, where the context so admits, be collectively referred to as the “**Parties**” and individually as the “**Party**”.

WHEREAS:

- A. The Parties have entered into a binding Implementation Agreement dated 19th May 2017 (“**Implementation Agreement**”).
- B. Pursuant to the Implementation Agreement, **Way2Go** and **BuzzCars** have proposed to undertake: the amalgamation of **Way2GO** into **BuzzCars**; and in relation to the Proposed Transaction, a merger notification shall be made to the *Competition Commission of Kratos* (“**CCK**”) under the provisions of the *Competition Act of Kratos, 2002* (as amended). (“**Competition Act**”).
- C. Pursuant to Clause [●] of the Implementation Agreement, the Parties have undertaken to duly set up clean teams in compliance with the provisions of the Competition Act, the rules framed there under, and any other legislation for time being in force, in order to provide reasonable assistance, information and data to the other Party for undertaking planning in relation to the Proposed Transaction, until receipt of approval of CCK or any other regulator.

**NOW THEREFORE, IN CONNECTION WITH THE PROPOSED SHARING OF
DOCUMENTATION AND INFORMATION, Way2Go Ltd AND BuzzCars India Ltd.
HAVE AGREED TO FOLLOW THE PROTOCOL SET OUT BELOW:**

1. DEFINITIONS

“**Confidential Information**” shall include:

- i. Proprietary business information;
- ii. Strategic information;
- iii. Trade secrets;
- iv. Market position or market shares of the Parties in any relevant market;
- v. Individual cost items (input costs, advertising costs, employment costs, distribution costs or other components of pricing etc.);
- vi. Non-public prices;
- vii. Profitability of services provided;
- viii. New services to be launched in the future or commercial strategies; and
- ix. Price-sensitive information.

2. NO CO-ORDINATION OF COMMERCIAL ACTIVITIES

1. The Parties undertake to not co-ordinate their respective commercial activities by:
 - (a) aligning their provision of services (including prices, pricing strategies, interest rates, and other terms of provision of services);
 - (b) implementing any commercial arrangements with each other; and
 - (c) discussing any strategic considerations related to the business activities of the Parties other than as required for the purposes of study and analysis for future planning.

3. INFORMATION SHARING

1. The Parties hereby agree that:
 - (a) Confidential Information may be exchanged between the Parties strictly for the limited purpose of study and analysis for future planning and for integration of the businesses.
 - (b) The Parties shall not take any action which can lead to the integration of their businesses or which is likely to impair their ability to compete independently, including integration of Information Technology (IT), customers, distributors, or suppliers of Way2Go with that of BuzzCars India Ltd.
 - (c) The Parties undertake to maintain a clean team restricted to a few individuals from within each of Way2Go Ltd. and BuzzCars India Ltd. to gather and analyse Confidential Information for undertaking a study and analysis for integration of the businesses in relation to the Proposed Transaction (“**Clean Team**”). Schedule I to this Agreement contains a list of all such persons from each of Way2Go Ltd. and BuzzCars India Ltd. who shall form part of the Clean Team. The Parties may

include additional members in the Clean Team, at a later stage, if required. Such additional members shall also be bound by the terms of this Agreement.

- (d) No individual, other than those forming a part of the Clean Team, shall have access to the Confidential Information. The members of the Clean Team shall not use any Confidential Information to influence each Party's respective commercial decisions which shall continue to be made independently, including pricing, market penetration, new product/service launches, etc.

4. CLEAN TEAM

1. The Parties agree that the members of the Clean Team shall abide by the following guidelines for the exchange of Confidential Information:
 - (a) The disclosure of and access to Confidential Information to members of the Clean Team shall be restricted strictly only on a “*need-to-know*” basis and to such extent as is reasonably necessary for the purpose of undertaking a study and analysis for future planning for integration of the businesses;
 - (b) Members of the Clean Team will preserve the confidential nature of the Confidential Information;
 - (c) All communication (including e-mails) containing Confidential Information which is disclosed to the Clean Team shall be clearly marked as “Clean Team Only”;
 - (d) Copies, summaries or transcripts of the Confidential Information shall be made only if strictly necessary for the purpose of undertaking a study and analysis for future planning for integration of the businesses; and
 - (e) Confidential Information will be secured by reasonable measures to prevent unauthorised access, corruption or loss.

5. CONFIDENTIALITY OBLIGATIONS

1. The Parties agree that they shall:
 - (a) take all steps that may be reasonably necessary to protect the integrity of the Confidential Information and to ensure against any unauthorized disclosure thereof; and
 - (b) promptly inform the other Party of any potential and/or inadvertent disclosure of the Confidential Information pertaining to such Party and shall take all steps to protect such Confidential Information.

2. The provisions of Clause 5.1 above shall not apply to any disclosure of the Confidential Information that is already in the public domain or becomes generally available to the public, other than through the act or omission of the other Party or any of its representatives, or as a result of disclosure by or at the direction of the Party to whom such Confidential Information pertains or any of its representatives or to a regulator or government body in accordance with law, as the case may be.
3. The members of the Clean Team who are employees of Way2Go Ltd. shall execute the Agreement to be bound set out at **Schedule II**.
4. The members of the Clean Team who are employees of BuzzCars India Ltd. shall execute the Agreement to be bound set out at **Schedule III**.

6. DOCUMENT PRODUCTION

1. The Parties shall:
 - (a) ensure that all key meetings/discussions between the members of the Clean Team and their content are accurately summarized in minutes; and
 - (b) keep an accurate record of all Confidential Information disclosed between the Parties and names of individuals that received access to such Confidential Information.

7. TERMINATION

1. This Agreement will automatically terminate if:
 - (a) The approval of the CCK, for the Proposed Transaction, has been received; or
 - (b) The Implementation Agreement has been terminated.
2. In the event that the Implementation Agreement is terminated, all Confidential Information shall promptly be returned by the Clean Team to Way2Go Ltd. or BuzzCars India Ltd., as the case may be, or destroyed, and no such Confidential Information shall, for any reason (except where required by applicable law or regulation), be retained or used by the Clean Team, including without limitation any copies of any documents that the Clean Team may have and any Confidential Information in electronic form (except where it is practically impossible to erase such electronic documents from its back-up system).

8. MISCELLANEOUS

1. **Governing Law and Dispute Resolution:** The governing law and dispute resolution arrangement under Clause [●] of the Implementation Agreement is incorporated herein by reference.

2. **Survival:** Clauses 5.1, 5.2 and 7 above shall survive the termination of this Agreement and shall continue to bind Way2Go Ltd. and BuzzCars India Ltd.

IN WITNESS WHERE OF, the Parties hereto have executed this Agreement on the day and year first above written

For and on behalf of Way2Go Ltd.

For and on behalf of BuzzCars India Ltd.

Name: _____

Name: _____

Title: _____

Title: _____

Signature :

Signature :

Schedule I

The following individuals from Way2Go Ltd shall form part of the Clean Team:

1. Mr. Anoop Sehgal, Director (Finance), Way2Go Ltd.
2. Mr. Varun Donadi, Chief Operating Officer, Way2Go Ltd.
3. Ms. Olive Saraf, Equity Partner, J.P. Saraf LLP

The following individuals from BuzzCars India Ltd. shall form part of the Clean Team:

1. Mr. Walter White, Chief India Operations, BuzzCars India Ltd.
2. Mr. Aazad Chashmawala, Director (Finance), BuzzCars India Ltd.
3. Ms. Deepshikha Gupta, Managing Partner, Goud & Goud LLP

Schedule II

AGREEMENT TO BE BOUND

1. I, Anoop Sehgal, have read and understood the Clean Team Agreement dated 23rd June 2017 between Way2Go Ltd. and BuzzCars India Ltd. (“**Clean Team Agreement**”) relating to the exchange of information and documentation for the sole purpose of study and analysis for future planning for integration of the businesses following the Appointed Date (as defined in the Implementation Agreement) in relation to the Proposed Transaction and agree to be bound by its terms with respect to any materials that are furnished to me in respect of the Proposed Transaction.
2. I further agree that until the receipt of the approval of the Competition Commission of India, I shall: (i) use such Confidential Information (as defined in the Clean Team Agreement) only under the terms outlined in the Clean Team Agreement; (ii) not disclose Confidential Information other than as set forth in the Clean Team Agreement; (iii) not use such Confidential Information for purposes of implementation of the Proposed Transaction; and (iv) not use such Confidential Information to influence the business and working of Way2Go Ltd or BuzzCars Ltd.
3. I further agree that any information, materials or documents furnished to me shall not be divulged to any representative of Way2Go Ltd or BuzzCars India Ltd, not forming part of the Clean Team until the receipt of the approval of the Competition Commission of India.

Agreed and Accepted on the 30th day of June 2017

Signature:

Name: Anoop Sehgal

Name of Organisation: Way2Go Ltd

Schedule III

AGREEMENT TO BE BOUND

1. I, Walter White, have read and understood the Clean Team Agreement dated 23rd June 2017 between Way2Go Ltd. and BuzzCars India Ltd. (“**Clean Team Agreement**”) relating to the exchange of information and documentation for the sole purpose of study and analysis for future planning for integration of the businesses following the Appointed Date (as defined in the Implementation Agreement) in relation to the Proposed Transaction and agree to be bound by its terms with respect to any materials that are furnished to me in respect of the Proposed Transaction.
2. I further agree that until the receipt of the approval of the Competition Commission of India , I shall: (i) use such Confidential Information (as defined in the Clean Team Agreement) only under the terms outlined in the Clean Team Agreement; (ii) not disclose Confidential Information other than as set forth in the Clean Team Agreement; (iii) not use such Confidential Information for purposes of implementation of the Proposed Transaction; and (iv) not use such Confidential Information to influence the business and working of Way2GO Ltd. or BuzzCars India Ltd.
3. I further agree that any information, materials or documents furnished to me shall not be divulged to any representative of Way2Go Ltd. or BuzzCars India Ltd., not forming part of the Clean Team until the receipt of the approval of the Competition Commission of India.

Agreed and Accepted on the 29th day of June 2017

Signature:

Name: Walter White

Name of Organisation: BuzzCars India Ltd.