

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking on  
Regulations Relating to Passenger  
Carriers, Ridesharing, and New  
Online-Enabled Transportation  
Services.

Rulemaking 12-12-011  
(Filed December 20, 2012)

**COMMENTS OF UBER TECHNOLOGIES, INC.  
ON ORDER INSTITUTING RULEMAKING**

Edward W. O'Neill  
Vidhya Prabhakaran  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111-6533  
Tel. (415) 276-6500  
Fax. (415) 276-6599  
Email: edwardoneill@dwt.com  
Email: vidhyaprabhakaran@dwt.com

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Attorneys for Uber Technologies, Inc.

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Pursuant to Rule 6.2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Uber Technologies, Inc. (“Uber”) submits its comments on this *Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportations Services* (“OIR”).

In the OIR, the Commission states that “[t]he purpose of this rulemaking is not to stifle innovation and the provision of new services that consumers want, but rather to assess public safety risks, and to ensure that the safety of the public is not compromised in the operation of these new business models.”<sup>1</sup> Uber urges the Commission to stand fast on its commitment to focus its inquiry on the public safety risks or enhancements resulting from the utilization of smartphone application software to request transportation services.

Uber further submits that no public interest or public safety purpose would be served by extending Commission regulation to a smartphone application company whose product simply provides lead generation service to Commission licensed charter party carriers (“TCP Holders”). Uber’s smartphone application simply connects persons needing transportation to TCP Holders that already fulfill the Commission’s training, substance abuse testing, vehicle maintenance, and insurance requirements. Therefore, any Commission regulation of Uber would be redundant and does not advance any public interest. To the contrary, the Commission’s exercise of jurisdiction

<sup>1</sup> OIR, at 2.

of technology companies, in the absence of any measurable advancement of public safety or public interest would result in the very “stifl[ing] of innovation” that the Commission seeks to avoid.

## **I. DESCRIPTION OF UBER**

Uber is a software technology company with headquarters in San Francisco, California. Uber is not a transportation company. It does not own vehicles, does not employ drivers and does not compete with taxicab or livery companies in providing transportation services to the public. Rather, Uber has developed a free, easy-to-use smartphone application (“App”) that allows an individual (“User”) to send a request for transportation service to a Commission licensed and regulated TCP Holder that has entered into an independent contract with Uber (“Partner”) or a driver employed by the TCP Holder (“Driver”). The GPS receiver built into all modern smartphones detects the User’s location and sends the location information to a driver-specific smartphone application that Uber provides to Partners/Drivers. Users without smartphones can take advantage of Uber’s service by sending a standard text message with their desired pick-up address or by utilizing m.uber.com, and, as with the smartphone application, that request is forwarded to the Partner/Driver located nearest to the requesting User.

The Partner or its Driver has sole and complete discretion to accept or reject the requests for transportation service.<sup>2</sup> If a request is accepted by the Partner or Driver, then the User is notified and provided with an estimated arrival time, the Partner/Driver’s name and vehicle license number, his customer service rating and an ability to contact the Partner/Driver by telephone. Smartphone users can also track the Partner/Driver’s progress towards the pick-up point in real time, via the App. At the completion of the ride, as the agent of the Partner/Driver, Uber processes payment (via use of a third party credit card payment processing company) for

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<sup>2</sup> In fact, the Partner or Driver has sole and complete discretion over whether it wants to even utilize the Uber smartphone application to receive the leads generated through the Uber smartphone application on any given day.

the transportation service provided. The User immediately receives a receipt from Uber via email. Uber forwards the fare, less Uber's commission, to the Partner/Driver. Uber does not charge the Partner/Driver for credit card processing fees.

When a User downloads the App, she must review and agree to Uber's Terms and Conditions (the "User Terms").<sup>3</sup> Uber's User Terms are clear about the fact that Uber does not provide "transportation services."<sup>4</sup> The sign-up screen also clearly states that "Uber is a request tool, not a transportation carrier."<sup>5</sup> The terms and conditions further explain that the App "offers information and a method to obtain" transportation services provided by licensed TCP Holders that are independently owned and operated.<sup>6</sup>

Before a licensed TCP Holder may contract with Uber, the TCP Holder and each Driver employed by the TCP Holder must provide proof that he/she possesses the requisite state and local licenses and meets all insurance, drug testing and other requirements set by the Commission and must agree to Uber's Partner/Driver Terms and Conditions (the "Partner/Driver Terms"). These terms and conditions unambiguously declare in capital letters that:

THE COMPANY DOES NOT PROVIDE TRANSPORTATION SERVICES, AND THE COMPANY IS NOT A TRANSPORTATION CARRIER. THE COMPANY OFFERS INFORMATION AND A METHOD TO CONNECT DRIVERS AND PARTIES SEEKING TRANSPORTATION SERVICES, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE TRANSPORTATION SERVICES OR ACT IN ANY WAY AS A TRANSPORTATION CARRIER, AND HAS NO RESPONSIBILITY OR LIABILITY FOR ANY TRANSPORTATION SERVICES PROVIDED BY YOU TO THIRD PARTIES.<sup>7</sup>

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<sup>3</sup> See User Terms, Attachment A.

<sup>4</sup> See User Terms, Attachment A.

<sup>5</sup> See Partner/Driver Terms, Attachment C.

<sup>6</sup> Uber's User Terms state, "It is up to the third party transportation provider, driver or vehicle operator to offer transportation services which may be scheduled through use of the Application or Service. The Company offers information and a method to obtain such third party transportation services, but does not and does not intend to provide transportation services or act in any way as a transportation carrier." See Attachment A.

<sup>7</sup> See Attachment B.

Uber's innovative App provides a simple, reliable method by which an individual may request and receive transportation service from a Partner/Driver that is a TCP Holder. The functionality built into the App significantly enhances passenger safety, convenience and satisfaction.<sup>8</sup> Use of the App ensures licensed, professional drivers provide reliable service. Users are able to track when a vehicle will arrive, allowing them to stay inside a home or business until the Partner/Driver has arrived.

The App also permits Users to rate the transportation provider upon the completion of the ride and to raise any concerns directly with Uber. This feature provides a strong incentive for Partners/Drivers to provide safe, reliable, high-quality transportation services and increases User satisfaction. If a Partner or Driver fails to provide a high quality product, Uber has the right to terminate its contract with the Partner, or refuse to allow a specific Driver employed by the Partner to utilize Uber's technology service to generate leads.

Uber currently provides its technology service in 14 cities in the United States including New York City, Washington DC, Boston and Chicago along with cities in seven countries around the world.

## **II. BACKGROUND OF PROCEEDING**

Uber began offering its App to Users in California in June 2010. In October 2010, the Commission's Consumer Protection and Safety Division ("CPSD" and now the Safety and Enforcement Division ("SED")) issued a cease and desist letter ("CPSD Cease and Desist Letter") alleging that Uber's service constitutes passenger transportation subject to the jurisdiction of the Commission and requiring it to cease operations until it receives a charter

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<sup>8</sup> For example, Users are provided: the total estimated cost for the requested transportation; the estimated pick-up time; the name and a photograph of the driver providing the transportation; the license plate number of the car providing the transportation service; and the ability to directly contact the driver after the request for transportation has been agreed to.

party carrier permit. On November 13, 2012, CPSD issued Citation No. F-5195 in Case No. PSG-3018 (“CPSD Citation”) alleging Uber had provided service as a charter party carrier of passengers without authority from the Commission and thereby violated Public Utilities Code sections 5371, 5413.5, 5386 and 5414.5.<sup>3</sup> On December 20, 2012, the Commission instituted this OIR.

### **III. COMMISSION JURISDICTION**

The OIR “seeks comment on how the Commission’s existing jurisdiction [over charter-party carriers] . . . should be applied to businesses like Uber, Sidecar, and Lyft and the drivers employed by or utilized by these entities.”<sup>9</sup> The Commission does not currently have jurisdiction over Uber because Uber is not a charter-party carrier within the meaning of Pub. Util. Code §5351 *et. seq.* Further, Uber advocates against extending the Commission’s jurisdiction to companies like Uber because: 1) no public policy or public interest is advanced by such an extension of the law; 2) the Legislature has recently enacted new legislation exempting Internet Protocol-enabled (“IP-enabled”) services, such as Uber, from regulation by the Commission; and, 3) extending Commission regulation to Uber would conflict with Federal and State policies promoting further development of, and innovation in, information services provided over the Internet by prohibiting regulation of information services providers.

#### **A. Uber Is Not A Charter-Party Carrier**

Uber is not “engaged in the transportation of persons by motor vehicle for compensation” within the meaning of Section 5360. As a result, Uber is not subject to Commission regulation as a charter-party carrier.

As explained above, Uber is a software company that provides an IP-enabled information service through a smartphone App that connects Users to Commission-licensed and regulated

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<sup>9</sup> OIR at 6.

TCP Holders. Users have sole discretion over whether or not to use the Uber App, if ever.

Uber's Users understand and are familiar with the purpose and function of the smartphone App.

They are generally experienced App users and understand how such Apps can provide innovative features and functions that make an incredibly wide variety of ordinary everyday activities more convenient and efficient.

Uber does not own, lease or charter any vehicles for the transportation of passengers.

Uber also does not employ any Drivers. Rather, Uber's agreements with each of its Partner/Drivers (its Partner/Drivers Terms) clearly state that Uber is not a transportation company and further provides that any passenger transportation services provided by its Partners/Drivers through use of the Uber App are the sole and exclusive responsibility of the Partner/Driver and not Uber.<sup>10</sup>

Uber does not exercise management control over any Drivers or vehicles used in providing transportation of passengers.<sup>11</sup> Partners/Drivers determine if and when they chose to make their transportation services available through the Uber App to Users. Even when Partners/Drivers do offer services to Users through the App, the Partners/Drivers retain sole and complete discretion to decide whether to accept each specific request for transportation received through the App.<sup>12</sup> The contract between the User and the Partners/Drivers is formed when the Driver exercises his or her discretion to accept the customer's request for specific transportation

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<sup>10</sup> See Partner/Driver Terms, Attachment C. Consistent with this term, Uber does not enter into any contract with a TCP Holder to provide any service as a sub-carrier of transportation.

<sup>11</sup> Uber's relationship with its Partners/Drivers is similar to the relationship the Commission determined in *Re Golden Bay Tour Co. dba Tower Tours*, D.93-06-034, 1993 Cal PUC LEXIS 474 ("Tower Tours") was not subject to Commission jurisdiction. In that decision, the Commission rejected the position advocated by its Transportation Division staff and dismissed the application of Golden Bay Tour Company dba Tower Tours Agency, for authority to operate as a charter-party carrier. It did so on grounds that although Pub. Util. Code §5360 defines the term "charter-party carrier" broadly, it cannot be interpreted as extending Commission regulation to a company that *did not own, lease or operate any vehicles; did not hold itself out or advertise itself as a TCP*; and did little more than book space and sell tickets for transportation services by other Commission licensed TCPs. Uber's relationship with its Partners/Drivers is functionally equivalent to the relationship between Tower Tours and the TCP Holders with which it did business.

<sup>12</sup> See Attachment C.

service. The Partner/Drivers provide the performance under the transportation contract and receives payment from the User for the transportation provided.

Uber does not hold itself out to the public as having any certificate, license or other authority from the Commission authorizing Uber to engage in the transportation of persons for compensation. In fact, each person who downloads the App is informed, prior to obtaining the right to use the App, that Uber does not itself provide transportation of passengers.<sup>13</sup> The Users generally do not confuse Uber with its Partners/Drivers who provide Users with the actual transportation service, no more than Hotwire's users confuse Hotwire with the hotels that actually provide lodging to Hotwire's users or OpenTable's users confuse OpenTable with the restaurants that actually provide food to OpenTable's users.

**B. No Public Interest or Public Safety Purpose Would Be Served By Extending Duplicative Commission Regulation to Uber**

Uber currently only contracts with TCP Holders. Therefore, the transportation service provided by Partners/Drivers in response to leads generated by utilizing Uber's App meets every regulatory requirement of the Commission and other public agencies applicable to TCP Holders. These requirements include: (1) driver qualifications, training and licensing; (2) drug and alcohol testing; (3) vehicle inspection and maintenance, including the Department of Motor Vehicle Pull Notice Program; (4) public liability and property damage insurance as required by the Commission's General Order 115-F; (5) workers compensation insurance; (6) the Commission's contact requirements for customer complaints; and (7) financial responsibility requirements.

As the party actually providing the transportation to the public already meets the Commission's requirements and regulations, no public safety or public interest purpose or objective would be served by extending Commission jurisdiction to and imposing duplicative regulation on a software company.

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<sup>13</sup> See Attachments A and C.

**C. The California Legislature Has Expressly Exempted IP-Enabled Services From Regulation by the Commission**

Neither the California Constitution, nor any act of the Legislature has given the Commission the authority to regulate information services provided over the Internet by software companies, such as Uber, that have developed an IP-enabled platform to assist third parties who desire transportation services and Commission-licensed TCP Holders offering such services. In fact, the Legislature recently exempted services of this type from Commission regulation.

Through the passage of new legislation in the last session, the Legislature has prohibited, with very few exceptions, regulation of “Internet Protocol enabled services.”<sup>14</sup> Such services include but appear broader than the “information services” which are exempt from Federal and state regulation under the Telecommunications Act of 1996, and include the services provided by Uber.

SB 1161 (Stats. 2012, Ch. 733), which became effective January 1, 2013, added §710 to the Public Utilities Code. Section 710 prohibits the CPUC from exercising jurisdiction over any “Internet Protocol enabled services” except as required or delegated by federal law or expressly provided otherwise in statute. Subject to certain limited exceptions, it further prohibits any department, agency, commission, or political subdivision of the State from enacting, adopting, or enforcing any law, regulation, or order that regulates IP enabled services, unless required or delegated by federal law or expressly authorized by statute.

The Legislative history of SB 1161 makes clear that it was intended to reaffirm and codify California’s policy of not regulating voice over internet protocol (“VoIP”) or other IP-enabled services accessible through a broadband connection, unless specifically authorized by

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<sup>14</sup> Pub. Util. Code § 239, added by the bill, defines “Internet Protocol enabled service” as “any service, capability, functionality, or application using existing Internet Protocol, or any successor Internet Protocol, that enables an end user to send or receive a communication in existing Internet Protocol format ....”

federal law and by the Legislature.<sup>15</sup> Through this means, the Legislature intended to foster, “continued investment, job creation, and innovation in California’s technology sector and the Internet economy” and ensure that “*California continues to adhere to the federal policy ‘to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.’*”<sup>16</sup>

The Senate Utilities and Commerce Bill Analysis noted arguments of supporters and opponents of the bill consistent with this broad intent. It noted that supporters of the bill claimed, among other things, that “[n]ew Internet-based ‘Applications’ are providing consumers with powerful tools for commerce, public safety, healthcare, entertainment, and other uses” and that “SB 1161 will help ensure continued growth and choice for consumers.”<sup>17</sup> It also noted that opponents of the bill claimed that, “[t]he bill prohibits the CPUC from exercising any jurisdiction over internet-enabled telecommunications services” and “by effectively removing CPUC oversight and regulatory authority” the bill “would remove the ability to enforce a host of valuable protections currently serving the interests of . . . consumers generally.”<sup>18</sup> Consistent with the claims of supporters and opponents of the bill, the Senate Rules Committee bill analysis specifically notes that the bill would require “express delegation by federal law” and specific authorization “by statute” in order for the Commission, or any other state agency, to regulate IP-enabled service providers.<sup>19</sup>

There are several exceptions to the broad prohibition of regulating IP-enabled services, but none of these exceptions apply to Commission regulation of IP-enabled services such as

<sup>15</sup> See Senate Utilities and Commerce Bill Analysis, SB 1161 (April 2012), at 6.

<sup>16</sup> Senate Utilities and Commerce Bill Analysis, SB 1161 (April 2012), at 6. (emphasis added).

<sup>17</sup> Senate Rules Commerce Bill Analysis, SB 1161 (Aug. 2012), at 13.

<sup>18</sup> Senate Rules Commerce Bill Analysis, SB 1161 (Aug. 2012), at 12-13.

<sup>19</sup> Senate Rules Committee Bill Analysis, SB 1161 (August 2012), at 2 states: “DIGEST: This bill requires authorization by statute or express delegation by federal law expressly authorized by statute for the Public Utilities Commission (PUC) or any other state department, agency, commission or political subdivision of the state to regulate Voice over Internet Protocol (VoIP) or Internet-Protocol-enable (IP) service providers.”

Uber or to the Public Utilities Code sections pursuant to which the Commission regulates charter party carriers.

Since the Uber App is an IP-enabled service and there is no federal law that delegates authority to the Commission to regulate IP-enabled information services like the Uber App, or any State statute that expressly authorizes the Commission to so do, the Commission is prohibited under Pub. Util. Code §710 from exercising jurisdiction over and regulating Uber.

**D. Imposing Commission Regulation on Uber Would Conflict With Federal and State Policies Prohibiting Federal or State Regulation of Information Service Providers**

Extending Commission regulation to Uber would also conflict with both Federal and State policies which generally prohibit regulation of information services provided over the Internet.

There is a longstanding and well established Federal policy supporting the growth and development of advanced telecommunications and information services by permitting them to develop unfettered by Federal or state regulation. In 1996, Congress enacted the Telecommunications Act of 1996 (“Telecom Act”),<sup>20</sup> for the purpose, among others, of establishing “a procompetitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans.”<sup>21</sup> The Telecom Act drew a distinction between “telecommunications services,”<sup>22</sup> which are subject to regulation by the FCC and state regulatory

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<sup>20</sup> P.L. No. 104-104, 110 Stat. 56 (1996).

<sup>21</sup> H.R. Rep. 104-458 (Conference Report on S.652 (1996), at 1).

<sup>22</sup> “Telecommunications service” is defined as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” 47 U.S.C. §153 (53). “Telecommunications” in this context is defined as, “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.” 47 U.S.C. §153 (50).

commissions, and “information services,”<sup>23</sup> which are not subject to regulation.<sup>24</sup> In doing so, Congress codified the Federal Communications Commission’s decades old distinction between “basic services” and “enhanced services” as “telecommunications services” and “information services,” respectively, and by specifically excluding information services from the ambit of Title II of the Communications Act pertaining to regulation of Common Carriers, “Congress indicated, consistent with the Commission’s long-standing policy of nonregulation, that information services not be regulated.”<sup>25</sup>

The Federal policy prohibiting regulation of information services has been cited and relied upon in a number of decisions preempting state regulation of such services. In *Vonage Holdings Corp. v. Minnesota Public Util. Comm’n*, 290 F.Supp.2d 993 (D. Minn. 2003), for example, the Federal District Court overturned an order of the Minnesota PUC requiring Vonage to comply with Minnesota state laws regulating telephone corporations and to pay state regulatory fees. The court did so on grounds that although Vonage provides a means for transmitting voice communications, it does so through VoIP, an interactive computer service that Federal policy clearly states should be unfettered by Federal or state regulation. The court stated,

Congress has spoken with unmistakable clarity on the issue of regulating the Internet: ‘It is the policy of the United States . . . to

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<sup>23</sup> “Information service” is defined as “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.” 47 U.S.C. §153 (24).

<sup>24</sup> This distinction parallels the distinction drawn by the FCC nearly 20 years earlier between “basic service” and “enhanced service” in its 1980 Order commonly referred to as the “Second Computer Inquiry” (*In the Matter of Amendment of Section 64.702 of the Commission’s Rules and Regulations* (Second Computer Inquiry), 77 FCC 2d 384 (1980)) which concluded the “basic service” should continue to be regulated under Title II of the Communications Act of 1934, but that regulation of “enhanced services” is not required in furtherance of any overall statutory objective and that freeing such enhanced services from traditional public utility regulation would offer the best means of achieving the potential of advanced telecommunications networks.

<sup>25</sup> *In the Matter of Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Dkt. No. 03-211, Memorandum Opinion and Order, 19 FCC Rcd. 22404, 34 Communications Reg. (P&F) 442, FCCF 04-267 (2004) (“Vonage Order”), n.118.

preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation. 47 U.S.C. §230(b); *see also Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523, 544 (8<sup>th</sup> Cir. 1998) (concluding that, based on Congress’s intent to leave Internet unregulated, ISPs should be excluded from the imposition of interstate access charges); *Zeran v. America Online, Inc.*, 129 F.3d 327, 330 (4<sup>th</sup> Cir. 1997) (recognizing that ‘Congress acted to keep government regulation of the Internet to a minimum.’).” *Vonage Holdings Corp. v. Minnesota Public Util. Comm’n*, 290 F.Supp.2d 993, 997 (D. Minn. 2003).

The court further stated, “Congress’s expression of its intent to not have Title II [Common Carrier regulation] apply to enhanced services demonstrates its intent to occupy the field of regulation of information services” and thus state “regulations that have the effect of regulating information services are in conflict with federal law and must be pre-empted.”<sup>26</sup>

California courts have also relied upon this policy in holding information service providers immune from civil suit under certain circumstances. In *Gentry v. Ebay, Inc.* 99 Cal.App.4<sup>th</sup> 816 (2002), the California Court of Appeals held that state law causes of action brought against ebay by an individual who purchased autographed sports memorabilia that was allegedly fraudulent from a third party seller through ebay’s internet auction website are preempted by the Telecommunications Act of 1996. In holding ebay immune from state law causes of action, the court relied upon a specific bar in 47 U.S.C. §230 (c)(1) on civil “publisher liability” of “interactive computer services” arising from information provided on or through the Internet from another information content provider.<sup>27</sup> The court also cited and relied upon the following statements of Federal policy promoting continued development of interactive

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<sup>26</sup> *Vonage Holdings Corp. v. Minnesota Public Util. Comm’n*, 290 F.Supp.2d 993, 1002 (D. Minn. 2003).

<sup>27</sup> 47 U.S.C. § 230 (c)(1) states: (1) Treatment of publisher or speaker – No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

computer services provided over the Internet free from regulation by Federal or State agencies contained in 47 U.S.C. § 230.

The Congress finds the following: (1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens . . . (4) The Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation . . . It is the policy of the United States – (1) to promote the continued development of the Internet and other interactive computer services and other interactive media; (2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation . . . .<sup>28</sup>

The court stated that section 230 was enacted to implement the broader Federal policy to preserve and promote information service provided over the Internet with a minimum of “government interference.”<sup>29</sup>

The court considered the nature of the operations and services provided by ebay and construed it as merely an electronic marketplace in which third party buyers and third party sellers of goods may come together to transact business. As such, it held ebay to be an “information service provider” within the meaning of the Telecommunications Act of 1996 immune from suit under 47 U.S.C. §230.

Like ebay, Uber’s App simply creates a platform for buyers of transportation service, to connect with third party providers of transportation service. Therefore, extending Commission regulation to Uber would clearly and unquestionably be inconsistent with Federal policy favoring continued development of the Internet and interactive computer information services free from Federal or state regulation.

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<sup>28</sup> *Gentry v. Ebay, Inc.* 99 Cal.App.4th 816, 829 (2002).

<sup>29</sup> *Id.* at 829.

#### **IV. USE OF UBER'S APP ENHANCES PERSONAL AND PUBLIC SAFETY**

The Uber App includes a number of features that enhance both personal and public safety.

##### **A. The Uber App Improves the Reliability of Transportation Service**

Uber's App provides Users with the name, photograph and license number of the Partner/Driver who has agreed to provide the transportation service to the User. Furthermore, the Uber App's facilitation of direct communication between the User and the Partner/Driver, as well as the ability of the User to see the vehicle proceeding towards the pick-up location allows for safer and more reliable pick-up service for the User.

##### **B. No-Cash Transactions Increases Customer Convenience and Driver Safety**

Direct credit card processing eliminates the need to use cash or credit cards upon the conclusion of the transportation service. Drivers and riders are thus less distracted at drop-off and thus more aware of their surroundings improving safety generally. In addition, the personal safety of both drivers and riders is increased and the Partner/Driver has increased assurance of payment for the transportation service provided.

##### **C. The Ratings System Increases Drivers' Attention to Safety and Quality of Service**

The User's ability to provide feedback and ratings on a Partner/Driver, provides a strong incentive for Partners/Drivers to ensure safety and to provide quality transportation service. Uber also has an incentive to only contract with those Partners/Drivers who provide high quality transportation service to its Users.

##### **D. With the Uber App, No One Is Ever Stranded**

The use of the Uber App increases the availability and access to transportation options. Uber's Partners/Drivers provide rides to and from anywhere requested. Thus, Users who previously had trouble finding reliable transportation during periods of high demand, or to/from

locations away from the downtown areas, now have access to safe, reliable transportation.<sup>30</sup> The use of the Uber App also reduces the incidences of drunk driving by providing a way home for those who may need it during peak demand times. Thus, the Uber App significantly improves the availability of transportation options and access in California.

#### **E. Use of Uber’s App Improves the Lives of TCP Holders/Drivers**

Uber’s App also allows TCP Holders and their Drivers with the opportunity to increase the volume of their business and the amount of their earnings by reducing the amount of “down” time between bookings from their usual, regular clients. A TCP Holder or Driver who partners with Uber is able to respond to a request for his or her transportation services from a Uber User whenever he or she is available and desires to utilize that time. Furthermore, Uber allows new TCP Holders who may not have as many established clients with an avenue to generate new leads that may allow them to create a steady flow of income over time. Thus, Uber positively impacts the lives of TCP Holders and their Drivers.

#### **V. COMMISSION DOES NOT NEED TO COLLECT ADDITIONAL DATA**

The Commission does not need additional data to conclude that the Uber App provides public safety benefits, for all of the clear reasons described in the preceding section.

Furthermore, since the Commission has no jurisdiction over Uber for the variety of reasons described in Section III, it would be inappropriate and unlawful for the Commission to require Uber, a privately-held software company, to devote its time and resources to the collection and reporting of data regarding its technology business to the Commission.

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<sup>30</sup> For example, a 2007 survey found that 49.75% of taxis dispatched in San Francisco are no-shows. *See Public Convenience & Necessity Report*, City and County of San Francisco Taxi Commission, at 5 (February 13, 2007) available at: <http://www.medallionholders.com/docs/pcn-07-report.pdf>. The survey also found that the highest no-show rate for dispatched taxis in San Francisco occurs on Fridays (67.27%) and Saturdays (55.45%), and that only 5% of dispatch calls on Fridays and Saturday evenings from 6 to 10 PM during the survey actually resulted in a cab arriving. *Id.* at 20.

## **VI. UBER’S PARTNERS/DRIVERS ALREADY HAVE APPROPRIATE INSURANCE**

Uber partners with licensed TCP Holders that already comply with the Commission’s insurance requirements. The Commission should ensure that all drivers providing transportation services to the public have sufficient and applicable insurance to ensure the possibility of adequate compensation to both customers and the general public if an accident does occur. Furthermore, the Commission should create a level playing field by not allowing drivers without adequate insurance to undercut the prices and rates of TCP Holders at the expense of public safety.

## **VII. THE COMMISSION SHOULD PROMOTE INNOVATION IN PASSENGER TRANSPORTATION SERVICES**

The OIR states that the Commission initiated this proceeding, in part, to “encourage innovators to use technology to improve the lives of Californians.”<sup>31</sup> The Uber App achieves the Commission’s objective. The Uber App connects customers of high-quality transportation to the Commission licensed transportation providers closest to them, allowing for the highest quality transportation with the fastest response time. It provides transportation options to all areas of a City, including underserved areas. It allows drivers a means to increase their utilization rate and earn more income. With the App, consumers get more choice, greater accessibility, a safer option and more transparency in pricing. Innovation in transportation services could be best be served by permitting services, such as Uber’s, that facilitate transportation through use of fully licensed carriers that comply with all applicable regulatory requirements, to continue to grow and innovate unfettered by Commission regulation.

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<sup>31</sup> OIR, at 1.

## **VIII. SCOPING INFORMATION**

### **A. Schedule**

Uber supports the schedule proposed in the OIR.

### **B. Evidentiary Hearings**

Uber believes that public evidentiary hearings are necessary in order for the Commission to more fully assess the impact on public safety and public interest issues resulting from “the operation of these new business models.” Uber requests that the Commission hold evidentiary hearings.

### **C. Categorization**

Uber supports the OIR’s categorization of this proceeding as quasi-legislative.

## **IX. CONCLUSION**

There is no basis for a finding that Uber is a charter party carrier. Moreover, no public safety or public interest objective would be served by extending the Commission’s jurisdiction over TCPs regulation to Uber. This fact is particularly true since the Commission already regulates the transportation services provided through use of the Uber App by virtue of the Commission’s existing regulation of the TCP Holders and Drivers who actually provide the transportation services requested by Users of the Uber App.

The intent and purposes of the Legislature in SB 1161 to promote further development of and innovation in IP enabled services generally, and of the Commission in the OIR to promote rather than impede innovation in transportation services in particular, could be best be served by permitting services, such as Uber’s, that facilitate transportation through use of fully licensed carriers that must comply with all applicable regulatory requirements, to continue to grow and innovate unfettered by Commission regulation.

Finally, extending Commission regulation to Uber would conflict with Federal and State policies prohibiting regulation of information services and is barred by recent California

legislation prohibiting regulation of IP enabled services. For all these reasons, Commission jurisdiction should not be extended to technology companies, such as Uber, in the absence of any public safety or public interest benefit. Doing so would ultimately result in the very “stifl[ing] of innovation” that the Commission seeks to avoid.

By: \_\_\_\_\_ /s/  
Edward W. O’Neill  
Vidhya Prabhakaran  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111-6533  
Tel. (415) 276-6500  
Fax. (415) 276-6599  
Email: edwardoneill@dwt.com  
vidhyaprabhakaran@dwt.com

Dated: January 28, 2013

Attorneys for Uber Technologies, Inc.

# ATTACHMENT A



UBER

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Global 

Partner Terms

## Terms and Conditions

**Last Updated: September 14, 2012**

The terms and conditions stated herein (collectively, the "Agreement") constitute a legal agreement between you and Uber Technologies, Inc., a Delaware corporation (the "Company"). In order to use the Service (defined below) and the associated Application (defined below) you must agree to the terms and conditions that are set out below. By using or receiving any services supplied to you by the Company (collectively, the "Service"), and downloading, installing or using any associated application supplied by the Company which purpose is to enable you to use the Service (collectively, the "Application"), you hereby expressly acknowledge and agree to be bound by the terms and conditions of the Agreement, and any future amendments and additions to this Agreement as published from time to time at <https://www.uber.com/terms> or through the Service.

The Company reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service or Application at any time, effective upon posting of an updated version of this Agreement on the Service or Application. You are responsible for regularly reviewing this Agreement. Continued use of the Service or Application after any such changes shall constitute your consent to such changes.

THE COMPANY DOES NOT PROVIDE TRANSPORTATION SERVICES, AND THE COMPANY IS NOT A TRANSPORTATION CARRIER. IT IS UP TO THE THIRD PARTY TRANSPORTATION PROVIDER, DRIVER OR VEHICLE OPERATOR TO OFFER TRANSPORTATION SERVICES WHICH MAY BE SCHEDULED THROUGH USE OF THE APPLICATION OR SERVICE. THE COMPANY OFFERS INFORMATION AND A METHOD TO OBTAIN SUCH THIRD PARTY TRANSPORTATION SERVICES, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE TRANSPORTATION SERVICES OR ACT IN ANY WAY AS A TRANSPORTATION CARRIER, AND HAS NO RESPONSIBILITY OR LIABILITY FOR ANY TRANSPORTATION SERVICES PROVIDED TO YOU BY SUCH THIRD PARTIES.

### Key Content-related Terms

"Content" means text, graphics, images, music, software (excluding the Application), audio, video, information or other materials.

"Company Content" means Content that Company makes available through the Service or Application, including any Content licensed from a third party, but excluding User Content.

"User" means a person who accesses or uses the Service or Application.

"User Content" means Content that a User posts, uploads, publishes, submits or transmits to be made available through the Service or Application.

"Collective Content" means, collectively, Company Content and User Content.

### Representations and Warranties

By using the Application or Service, you expressly represent and warrant that you are legally entitled to enter this Agreement. If you reside in a jurisdiction that restricts the use of the Service because of age, or restricts the ability to enter into agreements such as this one due to age, you must abide by such age limits and you must not use the Application and Service. Without limiting the foregoing, the Service and Application is not available to children (persons under the age of 18). By using the Application or Service, you represent and warrant that you are at least 18 years old. By using the Application or the Service, you represent and warrant that you have the right, authority and capacity to enter into this Agreement and to abide by the terms and conditions of this Agreement. Your participation in using the Service and/or Application is for your sole, personal use. You may not authorize others to use your user status, and you may not assign or otherwise transfer your user account to any other person or entity. When using the Application or Service you agree to comply with all applicable laws from your home nation, the country, state and city in which you are present while using the Application or Service.

You may only access the Service using authorized means. It is your responsibility to check to ensure you download the correct Application for your device. The Company is not liable if you do not have a compatible handset or if you have downloaded the wrong version of the Application for your handset. The Company reserves the right to terminate this Agreement should you be using the Service or Application with an incompatible or unauthorized device.

By using the Application or the Service, you agree that:

- You will only use the Service or Application for lawful purposes; you will not use the Services for sending or storing any unlawful material or for fraudulent purposes.
- You will not use the Service or Application to cause nuisance, annoyance or inconvenience.
- You will not impair the proper operation of the network.
- You will not try to harm the Service or Application in any way whatsoever.
- You will not copy, or distribute the Application or other content without written permission from the Company.
- You will only use the Application and Service for your own use and will not resell it to a third party.
- You will keep secure and confidential your account password or any identification we provide you which allows access to the Service.
- You will provide us with whatever proof of identity we may reasonably request.
- You will only use an access point or 3G data account (AP) which you are authorized to use.
- You are aware that when requesting transportation services by SMS, standard messaging charges will apply.

## License Grant, Restrictions and Copyright Policy

### Licenses Granted by Company to Company Content and User Content

Subject to your compliance with the terms and conditions of this Agreement, Company grants you a limited, non-exclusive, non-transferable license: (i) to view, download and print any Company Content solely for your personal and non-commercial purposes; and (ii) to view any User Content to which you are permitted access solely for your personal and non-commercial purposes. You have no right to sublicense the license rights granted in this section.

You will not use, copy, adapt, modify, prepare derivative works based upon, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast or otherwise exploit the Service, Application or Collective Content, except as expressly permitted in this Agreement. No licenses or rights are granted to you by implication or otherwise under any intellectual property rights owned or controlled by Company or its licensors, except for the licenses and rights expressly granted in this Agreement.

### License Granted by User

We may, in our sole discretion, permit Users to post, upload, publish, submit or transmit User Content. By making available any User Content on or through the Service or Application, you hereby grant to Company a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free license, with the right to sublicense, to use, view, copy, adapt, modify, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast and otherwise exploit such User Content only on, through or by means of the Service or Application. Company does not claim any ownership rights in any User Content and nothing in this Agreement will be deemed to restrict any rights that you may have to use and exploit any User Content.

You acknowledge and agree that you are solely responsible for all User Content that you make available through the Service or Application. Accordingly, you represent and warrant that: (i) you either are the sole and exclusive owner of all User Content that you make available through the Service or Application or you have all rights, licenses, consents and releases that are necessary to grant to Company and to the rights in such User Content, as contemplated under this Agreement; and (ii) neither the User Content nor your posting, uploading, publication, submission or transmittal of the User Content or Company's use of the User Content (or any portion thereof) on, through or by means of the Service or Application will infringe, misappropriate or violate a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

### Application License

Subject to your compliance with this Agreement, Company grants you a limited non-exclusive, non-transferable license to download and install a copy of the Application on a single mobile device or computer that you own or control and to run such copy of the Application solely for your own personal use. Furthermore, with respect to any Application accessed through or downloaded from the Apple App Store ("App Store Sourced Application"), you will use the App Store Sourced Application only: (i) on an Apple-branded product that runs iOS (Apple's proprietary operating system software); and (ii) as permitted by the "Usage Rules" set forth in the Apple App Store Terms of Service. Company reserves all rights in and to the Application not expressly granted to you under this Agreement.

### Accessing and Downloading the Application from iTunes

The following applies to any App Store Sourced Application:

- You acknowledge and agree that (i) this Agreement is concluded between you and Company only, and not Apple, and (ii) Company, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.
- You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.
- In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Company and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Company.
- You and Company acknowledge that, as between Company and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

- You and Company acknowledge that, in the event of any third party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party's intellectual property rights, as between Company and Apple, Company, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement.
- You and Company acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of this Agreement as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as related to your license of the App Store Sourced Application against you as a third party beneficiary thereof.
- Without limiting any other terms of this Agreement, you must comply with all applicable third party terms of agreement when using the App Store Sourced Application.

You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Application in any way; (ii) modify or make derivative works based upon the Service or the Application; (iii) create Internet "links" to the Service or "frame" or "mirror" any Application on any other server or wireless or Internet-based device; (iv) reverse engineer or access the Application in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service or Application, or (c) copy any ideas, features, functions or graphics of the Service or Application, or (v) launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Service or Application.

You shall not: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Application or Service or the data contained therein; or (v) attempt to gain unauthorized access to the Application or Service or its related systems or networks.

Company will have the right to investigate and prosecute violations of any of the above to the fullest extent of the law. Company may involve and cooperate with law enforcement authorities in prosecuting users who violate this Agreement. You acknowledge that Company has no obligation to monitor your access to or use of the Service, Application or Collective Content or to review or edit any Collective Content, but has the right to do so for the purpose of operating the Service and Application, to ensure your compliance with this Agreement, or to comply with applicable law or the order or requirement of a court, administrative agency or other governmental body. Company reserves the right, at any time and without prior notice, to remove or disable access to any Collective Content that Company, at its sole discretion, considers to be in violation of this Agreement or otherwise harmful to the Service or Application.

#### **Copyright Policy**

Company respects copyright law and expects its users to do the same. It is Company's policy to terminate in appropriate circumstances Users or other account holders who repeatedly infringe or are believed to be repeatedly infringing the rights of copyright holders. Please see Company's Copyright Policy at <https://www.uber.com/legal/copyright> for further information.

#### **Payment Terms**

Any fees that the Company may charge you for the Application or Service, are due immediately and are non-refundable. This no refund policy shall apply at all times regardless of your decision to terminate your usage, our decision to terminate your usage, disruption caused to our Application or Service either planned, accidental or intentional, or any reason whatsoever. The Company reserves the right to determine final prevailing pricing - Please note the pricing information published on the website may not reflect the prevailing pricing.

The Company, at its sole discretion, make promotional offers with different features and different rates to any of our customers. These promotional offers, unless made to you, shall have no bearing whatsoever on your offer or contract. The Company may change the fees for our Service or Application, as we deem necessary for our business. We encourage you to check back at our website periodically if you are interested about how we charge for the Service of Application.

#### **SMS Messaging**

If you select this feature, and have SMS service from one of the supported Carriers (T-Mobile, Verizon Wireless, AT&T, Sprint, Nextel, Boost, U.S. Cellular, MetroPCS and Cricket), you can request pickups via SMS and get notified if you request pickups through our Applications. Message and data rates may apply.

You will only receive messages from Company if you make a pickup request. If you change your mobile phone service provider the service may be deactivated and you will need to re-enroll in the notification service. Company reserves the right to cancel the notification service at any time; you may cancel (opt-out) the service by texting the word STOP to 827-222 from your mobile phone. For more information, please text the word HELP to 827-222, or call 866-576-1039.

#### **Intellectual Property Ownership**

The Company alone (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to the Application and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Application or the Service. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Application or the Service, or any intellectual property rights owned by the Company. The Company name, the

Company logo, and the product names associated with the Application and Service are trademarks of the Company or third parties, and no right or license is granted to use them.

### Third Party Interactions

During use of the Application and Service, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of third party service providers, advertisers or sponsors showing their goods and/or services through the Application or Service. Any such activity, and any terms, conditions, warranties or representations associated with such activity, is solely between you and the applicable third-party. The Company and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase, transaction or promotion between you and any such third-party. The Company does not endorse any sites on the Internet that are linked through the Service or Application, and in no event shall the Company or its licensors be responsible for any content, products, services or other materials on or available from such sites or third party providers. The Company provides the Application and Service to you pursuant to the terms and conditions of this Agreement. You recognize, however, that certain third-party providers of goods and/or services may require your agreement to additional or different terms and conditions prior to your use of or access to such goods or services, and the Company disclaims any and all responsibility or liability arising from such agreements between you and the third party providers.

The Company may rely on third party advertising and marketing supplied through the Application or Service and other mechanisms to subsidize the Application or Service. By agreeing to these terms and conditions you agree to receive such advertising and marketing. If you do not want to receive such advertising you should notify us in writing. The Company reserves the right to charge you a higher fee for the Service or Application should you choose not to receive these advertising services. This higher fee, if applicable, will be posted on the Company's website located at <http://www.uber.com>. The Company may compile and release information regarding you and your use of the Application or Service on an anonymous basis as part of a customer profile or similar report or analysis. You agree that it is your responsibility to take reasonable precautions in all actions and interactions with any third party you interact with through the Service.

### Indemnification

By entering into this Agreement and using the Application or Service, you agree that you shall defend, indemnify and hold the Company, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, Users, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (a) your violation or breach of any term of this Agreement or any applicable law or regulation, whether or not referenced herein; (b) your violation of any rights of any third party, including providers of transportation services arranged via the Service or Application, or (c) your use or misuse of the Application or Service.

### Disclaimer of Warranties

THE COMPANY MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR APPLICATION. THE COMPANY DOES NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE OR APPLICATION WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, APPLICATION, SYSTEM OR DATA, (B) THE SERVICE OR APPLICATION WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS IN THE SERVICE OR APPLICATION WILL BE CORRECTED, OR (F) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICE AND APPLICATION IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY THE COMPANY. THE COMPANY MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, SAFETY, TIMELINESS, QUALITY, SUITABILITY OR AVAILABILITY OF ANY SERVICES, PRODUCTS OR GOODS OBTAINED BY THIRD PARTIES THROUGH THE USE OF THE SERVICE OR APPLICATION. YOU ACKNOWLEDGE AND AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE APPLICATION AND SERVICE, AND ANY THIRD PARTY SERVICES OR PRODUCTS REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED BY LAW.

### Internet Delays

THE COMPANY'S SERVICE AND APPLICATION MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. THE COMPANY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

### Limitation of Liability

IN NO EVENT SHALL THE COMPANY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL THE COMPANY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING PERSONAL INJURY, LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE). THE COMPANY AND/OR ITS LICENSORS SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE OR INJURY WHICH MAY BE INCURRED BY YOU, INCLUDING BY NOT LIMITED TO LOSS, DAMAGE OR INJURY ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE OR APPLICATION, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE OR APPLICATION, ANY RELIANCE PLACED BY YOU ON THE

COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN YOU AND ANY THIRD PARTY SERVICE PROVIDER, ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE WEBSITE OR IS REFERRED BY THE SERVICE OR APPLICATION, EVEN IF THE COMPANY AND/OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE COMPANY MAY INTRODUCE YOU TO THIRD PARTY TRANSPORTATION PROVIDERS FOR THE PURPOSES OF PROVIDING TRANSPORTATION. WE WILL NOT ASSESS THE SUITABILITY, LEGALITY OR ABILITY OF ANY THIRD PARTY TRANSPORTATION PROVIDERS AND YOU EXPRESSLY WAIVE AND RELEASE THE COMPANY FROM ANY AND ALL ANY LIABILITY, CLAIMS OR DAMAGES ARISING FROM OR IN ANY WAY RELATED TO THE THIRD PARTY TRANSPORTATION PROVIDER. THE COMPANY WILL NOT BE A PARTY TO DISPUTES, NEGOTIATIONS OF DISPUTES BETWEEN YOU AND SUCH THIRD PARTY PROVIDERS. WE CANNOT AND WILL NOT PLAY ANY ROLE IN MANAGING PAYMENTS BETWEEN YOU AND THE THIRD PARTY PROVIDERS. RESPONSIBILITY FOR THE DECISIONS YOU MAKE REGARDING SERVICES OFFERED VIA THE APPLICATION OR SERVICE (WITH ALL ITS IMPLICATIONS) RESTS SOLELY WITH YOU. WE WILL NOT ASSESS THE SUITABILITY, LEGALITY OR ABILITY OF ANY SUCH THIRD PARTIES AND YOU EXPRESSLY WAIVE AND RELEASE THE COMPANY FROM ANY AND ALL LIABILITY, CLAIMS, CAUSES OF ACTION, OR DAMAGES ARISING FROM YOUR USE OF THE APPLICATION OR SERVICE, OR IN ANY WAY RELATED TO THE THIRD PARTIES INTRODUCED TO YOU BY THE APPLICATION OR SERVICE. YOU EXPRESSLY WAIVE AND RELEASE ANY AND ALL RIGHTS AND BENEFITS UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA (OR ANY ANALOGOUS LAW OF ANY OTHER STATE), WHICH READS AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

THE QUALITY OF THE TRANSPORTATION SERVICES SCHEDULED THROUGH THE USE OF THE SERVICE OR APPLICATION IS ENTIRELY THE RESPONSIBILITY OF THE THIRD PARTY PROVIDER WHO ULTIMATELY PROVIDES SUCH TRANSPORTATION SERVICES TO YOU. YOU UNDERSTAND, THEREFORE, THAT BY USING THE APPLICATION AND THE SERVICE, YOU MAY BE EXPOSED TO TRANSPORTATION THAT IS POTENTIALLY DANGEROUS, OFFENSIVE, HARMFUL TO MINORS, UNSAFE OR OTHERWISE OBJECTIONABLE, AND THAT YOU USE THE APPLICATION AND THE SERVICE AT YOUR OWN RISK.

### Notice

The Company may give notice by means of a general notice on the Service, electronic mail to your email address on record in the Company's account information, or by written communication sent by first class mail or pre-paid post to your address on record in the Company's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to the Company (such notice shall be deemed given when received by the Company) at any time by any of the following: letter sent by confirmed facsimile to the Company at the following fax numbers (whichever is appropriate): (877) 223-8023; letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to the Company at the following addresses (whichever is appropriate): Uber Technologies, Inc., 182 Howard Street, #8, San Francisco, CA 94105 addressed to the attention of: Chief Executive Officer.

### Assignment

This Agreement may not be assigned by you without the prior written approval of the Company but may be assigned without your consent by the Company to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void.

### Export Control

You agree to comply fully with all U.S. and foreign export laws and regulations to ensure that neither the Application nor any technical data related thereto nor any direct product thereof is exported or re-exported directly or indirectly in violation of, or used for any purposes prohibited by, such laws and regulations. By using the App Store Sourced Application, you represent and warrant that: (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

### Dispute Resolution

You and Company agree that any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof or the use of the Service or Application (collectively, "Disputes") will be settled by binding arbitration, except that each party retains the right to bring an individual action in small claims court and the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights. **You acknowledge and agree that you and Company are each waiving the right to a trial by jury or to participate as a plaintiff or class User in any purported class action or representative proceeding.** Further, unless both you and Company otherwise agree in writing, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of any class or representative proceeding. If this specific paragraph is held unenforceable, then the entirety of this "Dispute Resolution" section will be deemed void. Except as provided in the preceding sentence, this "Dispute Resolution" section will survive any termination of this Agreement.

Arbitration Rules and Governing Law. The arbitration will be administered by the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "AAA Rules") then in effect, except as

modified by this "Dispute Resolution" section. (The AAA Rules are available at [www.adr.org/arb\\_med](http://www.adr.org/arb_med) or by calling the AAA at 1-800-778-7879.) The Federal Arbitration Act will govern the interpretation and enforcement of this Section.

**Arbitration Process.** A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. (The AAA provides a form Demand for Arbitration at [www.adr.org/aaa/ShowPDF?doc=ADRSTG\\_004175](http://www.adr.org/aaa/ShowPDF?doc=ADRSTG_004175) and a separate form for California residents at [www.adr.org/aaa/ShowPDF?doc=ADRSTG\\_015822](http://www.adr.org/aaa/ShowPDF?doc=ADRSTG_015822).) The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of California and will be selected by the parties from the AAA's roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.

**Arbitration Location and Procedure.** Unless you and Company otherwise agree, the arbitration will be conducted in the county where you reside. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents you and Company submit to the arbitrator, unless you request a hearing or the arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.

**Arbitrator's Decision.** The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator's award damages must be consistent with the terms of the "Limitation of Liability" section above as to the types and the amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim. If you prevail in arbitration you will be entitled to an award of attorneys' fees and expenses, to the extent provided under applicable law. Company will not seek, and hereby waives all rights it may have under applicable law to recover, attorneys' fees and expenses if it prevails in arbitration.

**Fees.** Your responsibility to pay any AAA filing, administrative and arbitrator fees will be solely as set forth in the AAA Rules. However, if your claim for damages does not exceed \$75,000, Company will pay all such fees unless the arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)).

**Changes.** Notwithstanding the provisions of the modification-related provisions above, if Company changes this "Dispute Resolution" section after the date you first accepted this Agreement (or accepted any subsequent changes to this Agreement), you may reject any such change by sending us written notice (including by email to [support@uber.com](mailto:support@uber.com)) within 30 days of the date such change became effective, as indicated in the "Last Updated Date" above or in the date of Company's email to you notifying you of such change. By rejecting any change, you are agreeing that you will arbitrate any Dispute between you and Company in accordance with the provisions of this "Dispute Resolution" section as of the date you first accepted this Agreement (or accepted any subsequent changes to this Agreement).

## General

No joint venture, partnership, employment, or agency relationship exists between you, the Company or any third party provider as a result of this Agreement or use of the Service or Application. If any provision of the Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced to the fullest extent under law. The failure of the Company to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by the Company in writing. This Agreement comprises the entire agreement between you and the Company and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

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Pricing  
Support & FAQ  
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Twitter  
Facebook  
Blog  
Contact Us

### Phones

iPhone  
Android  
Web & SMS

### Company

Privacy Policy  
Terms  
Copyright  
Jobs

Language: **English (US)** Français Nederlands



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# ATTACHMENT B



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## Sign Up

Uber provides licensed, professional drivers the ability to receive and fulfill on-demand car service reservations as your private driver. You'll receive a text message when your driver has arrived!

### Personal Information

First Name

Last Name

Email Address

Password

Country

United States

Language

English

### Mobile Phone Information

Country

United States

Mobile Number

+1

### Payment Information

Credit Card Number

Expiration Date

01 2012

Security Code

Type of Card

Personal 

## Promotion Code

Code

## Legal Information

By signing up, I agree to the Uber [Terms and Conditions](#) and [Privacy Policy](#) and understand that Uber is a request tool, not a transportation carrier.

Standard Message and Data Rates May Apply. Reply **HELP** to 827-222 for help. Reply **STOP** to 827-222 to stop texts. For additional assistance, visit [support.uber.com](http://support.uber.com) or call (866) 576-1039. Supported Carriers: AT&T, Sprint, Verizon Wireless, and T-Mobile ®.

I agree to the Terms & Conditions and Privacy Policy

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# ATTACHMENT C

## Error

## Success



## [Client Terms](#)

# Partner/Driver Terms and Conditions

## August 2011

The terms and conditions stated herein (collectively, the "Agreement") constitute a legal agreement between you and Uber Technologies, Inc., a Delaware corporation (the "Company"). In order to use the Service and the associated Software you must agree to the terms and conditions that are set out below. By using or receiving any services supplied to you by the Company (collectively, the "Service"), and downloading, installing or using any associated software supplied by the Company which purpose is to enable you to use the Service (collectively, the "Software"), you hereby expressly acknowledge and agree to be bound by the terms and conditions of the Agreement, and any future amendments and additions to this Agreement as published from time to time at <http://www.uber.com/partners/terms> or through the Service.

The Company reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service or Software at any time, effective upon posting of an updated version of this Agreement on the Service or Software. You are responsible for regularly reviewing this Agreement. Continued use of the Service or Software after any such changes shall constitute your consent to such changes.

THE COMPANY DOES NOT PROVIDE TRANSPORTATION SERVICES, AND THE COMPANY IS NOT A TRANSPORTATION CARRIER. THE COMPANY OFFERS INFORMATION AND A METHOD TO CONNECT DRIVERS AND PARTIES SEEKING TRANSPORTATION SERVICES, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE TRANSPORTATION SERVICES OR ACT IN ANY WAY AS A TRANSPORTATION CARRIER, AND HAS NO RESPONSIBILITY OR LIABILITY FOR ANY TRANSPORTATION SERVICES PROVIDED BY YOU TO THIRD PARTIES.

## Representations and Warranties

By using the Software or Services, you expressly represent and warrant that you are legally entitled to enter this Agreement. If you reside in a jurisdiction which restricts the use of the Services because of age, or restricts the ability to enter into agreements such as this one due to age, you must abide by such age limits and you must not use the Software and Service. Without limiting the foregoing, the Service and Software is not available to children (persons under the age of 18). By using the Software or Services, you represent and warrant that you are at least 18 years old and that you have the right, authority and capacity to enter into this Agreement and to abide by the terms and conditions of this Agreement. Your participation in using the Service and/or Software is for your sole, personal use.

You may not authorize others to use your user status, and you may not assign or otherwise transfer your account to any other person or entity. When using the Software or Service you agree to comply with all applicable laws from the country, state, and city in which you are present while using the Software or Service.

You may only access the Services using authorized means. It is your responsibility to check to ensure you download the correct Software for your device. The Company is not liable if you do not have a compatible handset or if you have downloaded the wrong version of the Software for your handset. The Company reserves the right to terminate this Agreement should you be using the Service or Software with an incompatible or unauthorized device.

By using the Software or the Services, you represent, warrant and agree that:

- You possess a valid driver's license and are authorized to operate a motor vehicle and have all the appropriate licenses, approvals and authority to provide transportation for hire to third parties in all jurisdictions in which you use the Services or Software.
- You own, or have the legal right to operate, the vehicle which you intend to use when accepting passengers, and such vehicle is in good operating condition and meets the industry safety standards for a vehicle of its kind.
- You have a valid policy of liability insurance (in industry-standard coverage amounts) for the operation of your motor vehicle/passenger vehicle and/or business insurance to cover any anticipated losses related to the operation of a taxi/passenger delivery service.
- You will be solely responsible for any and all liability which results or is alleged as a result of the operation of your motor vehicle/passenger vehicle and/or taxi/passenger delivery service, including, but not limited to personal injuries, death and property damages.
- You will obey all local laws related to the operation of a taxi/passenger delivery service and will be solely responsible for any violations of such local laws.
- You will only use the Service or Software for lawful purposes; you will not use the Service or Software for sending or storing any unlawful material or for fraudulent purposes.
- You will not use the Service or Software to cause nuisance, annoyance or inconvenience.
- You will not copy, or distribute the Software or other content without written permission from the Company.
- You will only use the Service and Software for your own use and will not resell it to a third party.
- You will keep secure and confidential your account password or any identification we provide you which allows access to the Service and Software.
- You will provide us with whatever proof of identity we may reasonably request.
- You will only use an access point or 3G data account (AP) which you are authorized to use.

## License Grant and Restrictions

The Company hereby grants you a non-exclusive, non-transferable, right to use the Software and Service, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by the Company and its licensors.

You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Software in any way; (ii) modify or make derivative works based upon the Service or the Software; (iii) create Internet "links" to the Service or "frame" or "mirror" any Software on any other server or wireless or Internet-based device; (iv) reverse engineer or access the Software in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service or Software, or (c)

copy any ideas, features, functions or graphics of the Service or Software, or (v) launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Service or Software.

You may not use the Software and Service to: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Software or Service or the data contained therein; or (v) attempt to gain unauthorized access to the Software or Service or its related systems or networks.

## **Payment Terms**

Any fees which the Company may charge you for the Software or Service, are due immediately and are non-refundable. This no refund policy shall apply at all times regardless of your decision to terminate your usage, our decision to terminate your usage, disruption caused to our Software or Service either planned, accidental or intentional, or any reason whatsoever. The Company reserves the right to determine final prevailing pricing. Please note the pricing information published on the website may not reflect the prevailing pricing.

The Company may, at its sole discretion, make promotional offers with different features and different rates to any of our customers. These promotional offers, unless made to you, shall have no bearing whatsoever on your offer or contract. The Company may change the fees for our Service or Software as we deem necessary for our business. We encourage you to check back at our website periodically if you are interested about how we charge for the Service or Software.

## **Intellectual Property Ownership**

The Company alone (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to the Software and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Software or the Service. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Software or the Service, or any intellectual property rights owned by the Company. The Company name, the Company logo, and the product names associated with the Software and Service are trademarks of the Company or third parties, and no right or license is granted to use them.

## **Third Party Interactions**

During use of the Software and Service, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of third party service providers, advertisers or sponsors showing their goods and/or services through the Software or Service. Any such activity, and any terms, conditions, warranties or representations associated with such activity, is solely between you and the applicable third-party. The Company and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase, transaction or promotion between you and any such third-party. The Company does not endorse any sites on the Internet that are linked through the Service or Software, and in no event shall the Company or its licensors be responsible for any content,

products, services or other materials on or available from such sites or third party providers. The Company provides the Software and Service to you pursuant to the terms and conditions of this Agreement. You recognize, however, that certain third-party providers of goods and/or services may require your agreement to additional or different terms and conditions prior to your use of or access to such goods or services, and the Company disclaims any and all responsibility or liability arising from such agreements between you and the third party providers.

The Company may rely on third party advertising and marketing supplied through the Software or Service and other mechanisms to subsidize the Software or Service. By agreeing to these terms and conditions you agree to receive such advertising and marketing. If you do not want to receive such advertising you should notify us in writing. The Company reserves the right to charge you a higher fee for the Services or Software should you choose not to receive these advertising services. This higher fee, if applicable, will be posted on the Company's website located at <http://www.uber.com/>. The Company may compile and release information regarding you and your use of the Software or Service on an anonymous basis as part of a customer profile or similar report or analysis.

## Indemnification

By entering into this Agreement and using the Software or Service, you agree that you shall defend, indemnify and hold the Company, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, members, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (a) your violation or breach of any term of this Agreement or any applicable law or regulation, including any local laws or ordinances, whether or not referenced herein; (b) your violation of any rights of any third party, including, but not limited to passengers of your vehicle, other motorists, and pedestrians, as a result of your own interaction with any third party (c) your use (or misuse) of the Software or Service; and (d) your ownership, use or operation of a motor vehicle or passenger vehicle, including your carriage of passengers who have procured your transportation services via the Software or Services. Disclaimer of Warranties

THE COMPANY MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR SOFTWARE. THE COMPANY DOES NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE OR SOFTWARE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICE OR SOFTWARE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS IN THE SERVICE OR SOFTWARE WILL BE CORRECTED, OR (F) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICE AND SOFTWARE IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY THE COMPANY. THE COMPANY MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE

RELIABILITY, SAFETY, TIMELINESS, QUALITY, SUITABILITY OR AVAILABILITY OF ANY SERVICES, PRODUCTS OR GOODS OBTAINED BY THIRD PARTIES THROUGH THE USE OF THE SERVICE OR SOFTWARE. YOU ACKNOWLEDGE AND AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE SOFTWARE AND SERVICE, AND ANY THIRD PARTY SERVICES OR PRODUCTS REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## **Internet Delays**

THE COMPANY'S SERVICE AND SOFTWARE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. THE COMPANY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

## **Limitation of Liability**

IN NO EVENT SHALL THE COMPANY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL THE COMPANY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING PERSONAL INJURY, LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE). THE COMPANY AND/OR ITS LICENSORS SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE OR INJURY WHICH MAY BE INCURRED BY YOU, INCLUDING BY NOT LIMITED TO LOSS, DAMAGE OR INJURY ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE OR SOFTWARE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE OR SOFTWARE, ANY RELIANCE PLACED BY YOU ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN YOU AND ANY THIRD PARTY SERVICE PROVIDER, ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE WEBSITE OR IS REFERRED BY THE SERVICE OR SOFTWARE, EVEN IF THE COMPANY AND/OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

The Company may introduce you to third parties for the purposes of you providing transportation to them for a fee. We make no guarantees, warranties, or representations as to the actions or conduct of such third parties. The Company will not intervene in any disputes between you and such third parties. We cannot and will not play any role in managing payments between you and such third party parties. Responsibility for the decisions you make regarding transportation services offered via the Software or Service (with all its implications) rests solely with you. You agree that it is your responsibility to take reasonable precautions in all actions and interactions with any third party you interact with through the Service.

The transportation services that you provide, which is scheduled through the Service or Software, is fully and entirely your responsibility. The Company does not screen or otherwise evaluate potential riders/users of your transportation services. You understand, therefore, that by using the Software and the Service, you may be introduced to third parties that may be potentially dangerous, and that you use the Software and the Service at your own risk.

WE WILL NOT ASSESS THE SUITABILITY, LEGALITY OR ABILITY OF ANY SUCH THIRD PARTIES AND YOU EXPRESSLY WAIVE AND RELEASE THE COMPANY FROM ANY AND ALL LIABILITY, CLAIMS, CAUSES OF ACTION, OR DAMAGES ARISING FROM YOUR USE OF THE SOFTWARE OR SERVICE, OR IN ANY WAY RELATED TO THE THIRD PARTIES INTRODUCED TO YOU BY THE SOFTWARE OR SERVICE. YOU EXPRESSLY WAIVE AND RELEASE ANY AND ALL RIGHTS AND BENEFITS UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA (OR ANY ANALOGOUS LAW OF ANY OTHER STATE), WHICH READS AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

## Notice

The Company may give notice by means of a general notice on the Service, electronic mail to your email address on record in the Company's account information, or by written communication sent by first class mail or pre-paid post to your address on record in the Company's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to the Company (such notice shall be deemed given when received by the Company) at any time by any of the following: letter sent by confirmed facsimile to the Company at the following fax numbers (whichever is appropriate): (xxx) xxx-xxx; letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to the Company at the following addresses (whichever is appropriate): Uber Technologies, Inc., 182 Howard Street, #8, San Francisco, CA 94105 addressed to the attention of: Chief Executive Officer.

## Assignment

This Agreement may not be assigned by you without the prior written approval of the Company but may be assigned without your consent by the Company to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void.

## Equipment Lease

From time to time, the Company (the "Lessor") may offer equipment (the "Equipment") for lease to you (the "Lessee"), including, but not limited to mobile phones. The lease of such Equipment shall be governed by the following terms and conditions (the "Lease Terms"):

No Warranty. LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE EQUIPMENT, THEIR MERCHANTABILITY, OR THEIR FITNESS FOR A PARTICULAR PURPOSE. LESSOR SHALL NOT BE LIABLE TO LESSEE OR ANY OTHER PERSON FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM LESSEE'S USE OF THE EQUIPMENT, OR FOR DAMAGES BASED ON STRICT OR ABSOLUTE TORT LIABILITY OR ANY ACTION BY LESSOR.

Title and Assignment. Lessor shall retain title to the Equipment. Lessor may assign, sell or encumber its interest in any of the Equipment. THE RIGHTS OF ANY SUCH ASSIGNEE SHALL NOT BE

SUBJECT TO ANY ABATEMENT, DEDUCTION, OFF-SET, COUNTERCLAIM, RECOUPMENT, DEFENSE OR OTHER RIGHT WHICH LESSEE MAY HAVE AGAINST LESSOR OR ANY OTHER PERSON OR ENTITY. Notwithstanding the foregoing, any such assignment (a) shall be subject to Lessee's right to possess and use the Equipment subject to these Lease Terms so long as Lessee is not in default hereunder, and (b) shall not release any of Lessor's obligations hereunder.

Care, Use and Maintenance. Lessee will maintain the Equipment in good operating order and appearance, protect the Equipment from deterioration, other than normal wear and tear, and will not use the Equipment for any purpose other than that for which it was designed. Should the Equipment be destroyed or otherwise rendered inoperable, Lessee shall assume the full expense of replacement of the Equipment. Lessee shall not use the Equipment for voice services, international roaming, text or email messaging, or downloading applications or media, unless directly related to the Service. Lessee will be charged for all abnormal or unauthorized service fees on the Equipment, including but not limited to data plan overages, changes in carrier/network fees, application or media downloads, paid telephone services, messaging charge and international charges.

Delivery and Return of the Equipment. Lessee hereby assumes the full expense of transportation and in-transit insurance to Lessee's premises and installation of the Equipment. Upon termination (by expiration or otherwise) of this Lease Terms, Lessee shall, pursuant to Lessor's instructions and at Lessee's full expense (including, without limitation, expenses of transportation and in transit insurance), return the Equipment to Lessor in the same operating order, repair, condition and appearance as when received, less normal depreciation and wear and tear. Lessee shall return the Equipment to Lessor at such address within the continental United States as directed by Lessor.

Indemnity. Lessee will indemnify and hold Lessor and any assignee of Lessor harmless from and against any and all claims, costs, expenses, damages and liabilities, including reasonable attorneys' fees, arising out of the ownership, selection, possession, leasing, operation, control, use, maintenance, delivery, return or other disposition of the Equipment.

Risk of Loss. Effective upon delivery and until the Equipment are returned, Lessee relieves Lessor of responsibility for all risks of physical damage to or loss or destruction of the Equipment.

## General

This Agreement shall be governed by California law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service or Software shall be subject to the exclusive jurisdiction of the state and federal courts located in the City and County of San Francisco, California. No joint venture, partnership, employment, or agency relationship exists between you, the Company or any third party provider as a result of this Agreement or use of the Service or Software. If any provision of the Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced to the fullest extent under law. The failure of the Company to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by the Company in writing. This Agreement, comprises the entire agreement between you and the Company and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

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