

Promotion Agreement

This Promotion Agreement ("**Agreement**"), is entered into as of April 26, 2019 ("**Effective Date**"), by and between Uber Technologies, Inc. having an office at 1455 Market Street, 4th Floor, San Francisco, California 94103 ("**Uber**") and the entity identified below as the Regional Transportation District ("**RTD**" or "**Company**"), regarding the promotional and marketing activities described herein (the "**Promotion**"). This Agreement consists of this cover page ("**Cover Page**"), the Terms and Conditions set forth in Exhibit A ("**General Terms**"), and any other exhibits, schedules or attachments hereto ("**Exhibits**").

1. Company Name: Regional Transportation District

2. Agreement Representatives: For Company: Adrian S. Mabry, 1660 Blake Street, Denver, CO 80202; Adrian.Mabry@rtd-denver.com; **For Uber:** Calvin Yang, 1455 Market Street, San Francisco, CA 94103; calviny@uber.com

3. Promotion Description: The Promotion shall consist of mutually beneficial marketing messages on each party's designated media properties to promote the partnership by (1) proclaiming the ease of use and value of in-app trip planning with Uber which now includes RTD transit options ("**Journey Planning**") and (2) ability of users to buy RTD mobile tickets through a link in the Uber app ("**Ticketing**") (collectively, the "**Partnership**"). All print and digital content part of the Partnership will be co-branded including both Company and Uber logos.

4. Term of Agreement: From the Effective Date until March 1, 2020, unless terminated earlier by one of the parties as set forth in this Agreement (the "**Term**"). The promotion period is tentatively scheduled for March 1, through July 31, 2019, but is subject to change upon mutual agreement in writing between the parties' designated representatives for this Agreement (the "**Promotions Period**").

5. Territory: U.S. (except Internet shall be worldwide)

6. Company Obligations:

During the Promotions Period, RTD will promote the Partnership by providing Uber with the following:

A. OOH print and digital advertising spaces to display content created by Uber and approved by RTD, to promote the Partnership (split equally between Journey Planning and Ticketing), for a total estimated trade value of One Hundred Forty Five Thousand Dollars (\$145,000.00):

- 850 Full Fleet Interior Cards
- 172 Full Fleet Light Rail Vehicle Transflux Cards
- 66 Full Fleet Commuter Rail Transflux Cards

B. Public Information Display (PID) advertising at Boulder Junction, Civic Center, and Union Station for 12 weeks.

7. Uber Obligations:

During the Promotions Period, Uber will promote the Partnership by providing RTD with the following:

A. Uber is responsible for production and installation costs *estimated* at approximately \$10K and will contract production and installation directly with providers suggested by RTD to produce and install the Interior Cards and Transflux Cards described in Paragraph 6.

B. Send the following messages, with content created by Uber in collaboration with RTD, and approved by both parties, to the total current active Uber app users in the Denver Metro market, which Uber anticipates will be a minimum of 250,000 users, and Uber will notify RTD if the total number of current active Uber app users in the Denver Metro market area falls below that minimum number during the Promotions Period, in which case Uber will reimburse RTD a pro-rated portion of \$145,000, which represents the cost of the advertising space as described in Paragraph 6:

- 2 In-app promotions (1 about Journey Planning and 1 about Ticketing)
- Monthly Rider Newsletter
- 2 targeted emails (1 about Journey Planning and 1 about Ticketing)

C. Uber will provide anonymized and aggregated click-thru data and open rates for the messages sent, or other user interaction data regarding the effectiveness of the message deployment as mutually agreed by the parties' representatives. The data provided by Uber will not include personal identifiers. All data shared by Uber pursuant to this Agreement is Confidential Information.

8. Uber Marks: Uber wordmark Uber logo

9. RTD Marks: RTD wordmark RTD logo

10. Consideration: Good and valuable consideration in the form of advertising services, content creation, and advertising space for a total estimated trade value to each party of One Hundred Forty Five Thousand Dollars (\$145,000.00) the receipt of which will be complete upon fulfillment of both parties' obligations under this Agreement. There are no Fees to be paid by either party in this Agreement.

11. Collaboration: The parties agree to share creative materials created in furtherance of this Agreement. The parties may use such creative materials beyond the term of this agreement to continue to promote the Partnership and/or in-app transit use throughout the US more

generally, with approval from the other party, which approval shall not be unreasonably withheld or delayed.

12. Legal Notices: Emails to Uber under Section 13.f shall be sent to Uber Technologies Inc., ATTN: Legal Notices, 1455 Market Street, San Francisco, California 94103. Legal notices to RTD shall be sent to RTD Office of General Counsel, 1660 Blake St. BLK-23, Denver, CO 80202.

For good and valuable consideration the receipt of which is hereby acknowledged, the parties agree to the terms hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

UBER TECHNOLOGIES INC

By: DR
Print Name: David Reich
Title: Director, Head of Transit

REGIONAL TRANSPORTATION DISTRICT

By: [Signature]
Print Name: DAVID A. GENOVA
Title: General Manager : CEO

Approved as to legal form for RTD:

By: [Signature]
Print Name: Jeifer Ross-Amato
Date: 4-26-19

PROMOTION TERMS AND CONDITIONS

1. **Agreement:** These Promotion Terms and Conditions, together with the cover page and any exhibits, schedules or attachments constitute the "**Agreement**".

2. **Promotion:** Uber and the entity identified on the cover page as the promotion company ("**Company**") will work together in good faith on the promotion described on the cover page ("**Promotion**").

3. **Term and Termination:** The term of this Agreement shall be from the date that the Agreement is fully executed until the completion of the Promotion, unless otherwise set forth on the cover page or earlier terminated by one of the parties (the "**Term**"). This Agreement may be terminated at the election of one party within fifteen (15) days following notice thereof if the other party commits a breach that can be cured and the breach is not cured within such period. Uber will have the right to terminate this Agreement for its convenience upon fifteen (15) days prior written notice without payment or penalty. In the event of termination due to Company's breach, Uber shall have no payment obligations from the breach date forward and shall be refunded a prorated amount of the Fees. Additionally, if this Agreement is terminated for any other reason (other than by Company for a breach by Uber), Company shall refund to Uber a pro rata portion of the paid Fees. Upon termination or expiration of this Agreement, each party shall immediately cease using the Marks (as defined below) of the other party, or other content provided by the other party in connection with this Agreement.

4. **Fees and Payment:** In consideration of the rights and benefits provided by Company, Uber agrees to pay the Fees set forth on the cover page. Uber shall pay the Fees within forty-five (45) days after receipt by Uber of a properly rendered invoice from Company in the installments set forth on the cover page.

5. **Permissions:** To the extent that either party provides, creates, distributes or allows the other party to distribute any materials in relation to this Promotion ("Promotion Content"), the creating party will obtain all of the necessary rights, licenses, consents, and permissions related to such Promotion Content, including but not limited to logos, props, music, photographs, videos and, with respect to talent, talent's name, image, likeness, social media handle, biographical information or other personal indicia that may be incorporated in the Promotion Content (individually or collectively, "**Permissions**") sufficient to allow the other party or its designees to use such Promotion Content as permitted herein., ("**Promotion Content**"). For the avoidance of doubt, the creating party will secure all necessary Permissions for the other party to use the Promotion Content in accordance with the terms of this Agreement on a fully-paid up and royalty free-basis in the other party's materials, including without limitation on that party's website and social media pages.

6. **Intellectual Property - Licenses**

7. **By Uber:** Uber hereby grants to Company a non-exclusive, non-transferable, non-sublicensable, royalty-free license in the United States, its territories and possessions during the Term of this Agreement to use the Uber name, logos, trademarks, designs, social media or other handles, hashtags, and other forms of identification that are provided to Company by Uber ("**Uber Marks**") solely for purposes of the Promotion and as set forth on the cover page, and subject to Uber's prior written approval of each such use (including, but not limited to approval of messages containing any of the Uber Marks delivered through social media platforms such as Twitter and Facebook) in advance of distribution or publication, not to be unreasonably withheld. Except to the extent necessary for Company to perform its obligations hereunder, Company shall not have the right to authorize others to use the Uber Marks and Company's use of the Uber Marks shall include all standard proprietary notices

prescribed by Uber. All uses by Company of the Uber Marks shall (i) be appropriate and dignified and benefit Uber's public image and (ii) inure solely to the benefit of Uber. Company acknowledges and agrees that the Uber Marks and the goodwill represented thereby are owned and controlled by Uber and that neither this Agreement nor the performance thereof by any party will give Company any ownership or proprietary interest in the Uber Marks. This license shall cease upon the termination or other expiration of this Agreement.

a. **By Company:** Company hereby grants to Uber a non-exclusive, non-transferable, non-sublicensable, royalty-free, worldwide license during the Term of this Agreement to use Company's name, logos, designs, trademarks, , social media or other handles, hashtags, or other forms of identification that are provided to Uber by Company or its designee(s) ("**Company Marks**") and any Promotion Content solely for purposes of the Promotion and as set forth on the cover page, and subject to Company's prior written approval of each such use in advance of distribution or publication, not to be unreasonably withheld. All uses by Uber of the Company Marks shall (i) be appropriate and dignified and benefit Company's public image and (ii) inure solely to the benefit of Company. Uber acknowledges and agrees that the Company Marks and the goodwill represented thereby are owned and controlled by Company, and that neither this Agreement nor the performance thereof by any party will give Uber any ownership or proprietary interest in the Company Marks. This license shall cease upon the termination or other expiration of this Agreement.

b. The Uber Marks and the Company Marks shall be collectively referred to as the "**Marks.**" Any and all press releases, media communications, public announcements and the like relating to the Promotion or regarding this Agreement which a party wishes to distribute and/or disseminate shall be subject to the prior written approval of the other party.

8. Confidentiality: "**Confidential Information**" means any secret, nonpublic, confidential or proprietary business, technical, financial or other information or materials (including, without limitation, information relating to business and marketing plans, intellectual property, or customer information) of a party ("**Disclosing Party**") provided to the other party ("**Receiving Party**") in connection with the Agreement, whether orally or in physical form and whether or not designated as confidential or proprietary by the Disclosing Party, which the Receiving Party knows or reasonably should know is treated as confidential by the Disclosing Party, and shall include the terms of the Agreement. Confidential Information will at all times remain the property of the Disclosing Party. Each Receiving Party agrees that (a) it will use Confidential Information of Disclosing Party solely for the purpose of performing its obligations under the Agreement and (b) it will not disclose, use or otherwise make available the Confidential Information of the Disclosing Party to any third party other than the Receiving Party's employees or agents, on a need-to-know basis, who are bound by the confidentiality obligations contained herein, provided that Receiving Party remains liable for any breach of the confidentiality provisions of the Agreement by its employees or agents. Without limiting the foregoing, Company expressly agrees that any Uber rider or driver information that Company or its vendor, or any other service provider, gains as a result of this Agreement, including without limitation the fact that the rider or driver is an Uber user, will not be used, disclosed, given, or sold in order to market, or assist in the marketing of, any products, or services outside of the scope of this Agreement. Upon written request by Disclosing Party, or upon the termination of this Agreement, Receiving Party will comply with the Disclosing Party's reasonable instructions regarding the disposition of Confidential Information in Receiving Party's possession or control. Both parties agree that any unauthorized use or disclosure of Confidential Information may cause immediate and irreparable harm to the Disclosing Party for which money damages may not constitute an adequate remedy. In that event, the Disclosing Party shall be entitled to seek and to obtain injunctive or other equitable relief without limiting or restricting its rights

to seek or obtain other damages or relief available under this Agreement or Applicable Law (defined below). If RTD receives a request pursuant to the Colorado Open Records Act for Uber Confidential Information, Uber will assist RTD in demonstrating that the records requested are confidential and exempt from disclosure pursuant to Colorado law.

9. Privacy and Data: Any Personal Data (as defined below) that may be obtained or used by a party will be collected, used, stored and maintained according to (a) generally accepted data collection standards and applicable United States and foreign laws, rules, regulations, ordinances, orders, licenses, permits, governmental/regulatory requirements and/or guidelines, including without limitation the CAN-SPAM Act and Children's Online Privacy Protection Act ("**Applicable Law**") and (b) such party's privacy policy detailing such party's data practices, which shall be published during the Term. Except as may be set forth on the cover page, each party shall own, and shall not be required to share, any Personal Data that it maintains or collects with respect to the Agreement. For purposes of this Agreement, "**Personal Data**" means any information obtained in connection with this Agreement (i) relating to an identified or identifiable natural person; (ii) that can reasonably be used to identify or authenticate an individual, including but not limited to name, contact information, precise location information, persistent identifiers, government-issued identification numbers, passwords, PINs, financial account numbers and other personal identifiers; and (iii) that may otherwise be considered "personal data" or "personal information" under the Applicable Law. A party's Personal Data shall be deemed the Confidential Information of such party. In the event that Company sends electronic communications pursuant to this Agreement, it will only send such communications in accordance with all Applicable Laws and only to those recipients who have consented to receive such communications. The parties acknowledge and agree that the transfer of Personal Data is not contemplated under this Agreement.

10. Representations, Warranties & Covenants

a. **General:** Each party represents, warrants and covenants that (i) it has the authority to execute, deliver, and perform its obligations under this Agreement, and (ii) the use of its Marks as permitted and approved under this Agreement does not and will not infringe upon the intellectual property rights of any third party. Each party additionally represents, warrants and covenants that (i) the use of the Promotion Content as permitted and approved under this Agreement does not and will not infringe upon the rights of any third party (including intellectual property rights, privacy and/or publicity rights); (ii) Each party has obtained or will obtain all Permissions needed to perform its obligations as contemplated under this Agreement and to grant the rights granted herein; (iii) Each party and its activity in connection with this Agreement (including without limitation any related advertising, promotions or activities authorized in this Agreement) shall comply with all Applicable Laws and Company shall not in the performance of this Agreement violate the rights of any third party;

11. Indemnification

a. To the extent permitted by law, each party will indemnify, defend and hold harmless the other party, its affiliates and each of their respective officers, directors, and representatives, from and against any and all actions, causes of action, claims, demands, judgments, losses, damages, liabilities and related costs and expenses (including reasonable attorneys' fees) (each a "**Claim**") arising from or related to any third-party claim, demand or action in connection with (i) a breach or alleged breach of any of the indemnifying party's obligations, representations, warranties, covenants or provisions hereunder; (ii) the indemnified party's approved use of the indemnifying party's Marks or materials provided by the indemnifying party's in connection with this Agreement; and (iii) the unauthorized use by the indemnifying party of any of the indemnified

party's Marks or materials provided in connection with this Agreement. Additionally, to the extent permitted by law, the parties will indemnify, defend and hold harmless the other party, its affiliates, and each of their respective officers, directors, and representatives, from and against any and all Claims brought by a third party arising from the negligent acts or omissions of the other party or any of its officers, directors, members, employees, contractors, subcontractors, licensees, representatives or agents.

b. Notwithstanding any of the foregoing, neither party shall be obligated to indemnify the other party for any Claim to the extent that such Claim arises out of the negligence or willful misconduct of, or breach of this Agreement by, the party seeking indemnification.

c. The indemnified party shall provide prompt notice to the indemnifying party of any potential or actual claim subject to indemnification hereunder, provided, however, that a failure to provide notice will not release the indemnifying party from any of its obligations to the extent the delay has not resulted in prejudice to the indemnifying party's ability to defend the Claims. The indemnifying party will assume the defense of the Claim through counsel designated by it and reasonably acceptable to the indemnified party. The indemnified party will have the right to associate in the defense or settlement of any Claims under this Agreement. The indemnifying party will not settle or compromise any claim, or consent to the entry of any judgment, without written consent of the indemnified party, which will not be unreasonably withheld. The indemnified party will reasonably cooperate with the indemnifying party in the defense of a Claim, at indemnifying party's expense. For any Claim involving the indemnified party's intellectual property, the indemnified party shall have the right to control the defense of any such Claim.

12. Limitation of Liability: EXCEPT IN CONNECTION WITH A PARTY'S INDEMNITY OBLIGATIONS, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR BREACH OF CONFIDENTIALITY OBLIGATIONS, UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY, OR ITS AFFILIATES, OR ITS OR THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, CUSTOMERS, OR AGENTS, FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES, INCLUDING LOST PROFITS OR GOODWILL, OR FOR PUNITIVE OR EXEMPLARY DAMAGES, WHETHER SUCH PARTY KNEW, OR SHOULD HAVE KNOWN, OF THE POSSIBILITY OF SUCH DAMAGES, AND WHETHER UNDER A THEORY OF CONTRACT, TORT OR OTHERWISE.

13. Miscellaneous

a. **Governing Law & Jurisdiction:** This Agreement shall be governed by and construed according to the laws of the State of Colorado, without regard to any conflict of laws rules or principles. Excluding claims involving intellectual property or breach of confidentiality, any claim or dispute arising out of, in connection with or relating to this Agreement shall be resolved through binding arbitration conducted by a single arbitrator under the commercial arbitration rules of JAMS. The place of arbitration shall be Denver, Colorado. For non-arbitrable claims, venue shall be in the federal or state courts of Colorado.

b. **Assignment:** Neither party may assign this Agreement in whole or in part without the other party's prior written consent. Except as permitted herein, any purported assignment or delegation by a party without the other party's prior written consent is void.

c. **No Implied Waiver; Severability:** A waiver by either party of a breach of any provision of this Agreement shall not constitute a waiver of any other provision. Any waiver of any right under this Agreement must be in writing and signed by the waiving party in order to be enforceable. If

any provision of this Agreement is invalid or unenforceable by reason of any Applicable Law, the remaining terms and provisions of this Agreement shall not be affected thereby and shall be valid and enforced to the full extent permitted by law.

d. **Entire Agreement; Modification:** This Agreement constitutes the entire agreement between the parties with regard to the subject matter of this Agreement. This Agreement may not be changed or modified except by a writing signed by both parties. In the event of a conflict between the terms of the cover page or any exhibit and these Promotion Terms and Conditions, these Promotion Terms and Conditions will control.

e. **Force Majeure:** If because of an act of God, inevitable accident, fire, lockout, strike or other labor dispute, riot or civil commotion, act of terrorism or war, act of government or government instrumentality, failure of performance by a common carrier, or other cause beyond the reasonable control of a party (each, a "**Force Majeure Event**"), either party is unable to perform any or all of its obligations hereunder, then such inability will not be a breach of this Agreement and the relevant obligations of such party will be suspended for the duration of such Force Majeure Event. Notwithstanding the foregoing, if, due to a Force Majeure Event, Company is unable to perform any or all of its obligations hereunder, Company shall, at Uber's sole option: (i) with Uber's mutual agreement extend the Term by the amount of time Company is unable to perform its obligations hereunder as a result of such Force Majeure Event, (ii) provide Uber with a reasonably equivalent make-good approved by Uber, or (iii) provide Uber with a pro rata refund of the Fees paid (based on benefits and rights actually received by Uber).

f. **Notice:** All notices required under this Agreement will be in writing and delivered by (i) personal delivery, (ii) overnight courier delivery, or (iii) electronically confirmed "pdf" document attached to an email message (provided a duplicate copy is delivered by one of the above methods), to the respective parties at their addresses stated on the cover page or to such other address as a party may specify in a notice given pursuant to this paragraph. A notice will be deemed delivered and effective (1) upon delivery if sent by personal delivery or overnight courier, and (2) upon transmission if sent by email PDF attachment.

g. **Survival:** All rights and obligations herein which are by their nature continuing will survive termination or expiration of this Agreement, including but not limited to provisions related to confidentiality, warranties, and indemnification.

h. **Counterparts:** This Agreement may be executed in counterparts (including by electronic signature), which when taken together shall constitute one original Agreement.