

1 DAVID C. SHONKA
2 Acting General Counsel

3 KATHERINE WORTHMAN, DC Bar No. 488800
4 IOANA RUSU, DC Bar No. 1001603

5 Federal Trade Commission
6 600 Pennsylvania Avenue, NW
7 Mailstop CC-10232
8 Washington, D.C. 20580
9 Phone: (202) 326-2929 (Worthman)
10 Facsimile: (202) 326-3768
11 Email: kworthman@ftc.gov (Worthman); irusu@ftc.gov (Rusu)

12 Colin Hector, CA Bar No. 281795
13 Federal Trade Commission
14 901 Market Street, Suite 570
15 San Francisco, CA 94103
16 Phone: (415) 848-5100
17 Facsimile: (415) 848-5184
18 Email: Attorneys for Plaintiff
19 FEDERAL TRADE COMMISSION

20 UNITED STATES DISTRICT COURT
21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
22 San Francisco Division

23 FEDERAL TRADE COMMISSION,
24 Plaintiff,
25 v.
26 UBER TECHNOLOGIES, INC.,
27 a Delaware corporation,
Defendant.

Case No. _____

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission (“Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), for a permanent injunction,

1 and other equitable relief in this matter, pursuant to Section 13(b) of the Federal Trade
2 Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The Commission and Defendant stipulate to
3 the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”)
4 to resolve all matters in dispute in this action between them.

5 THEREFORE, IT IS ORDERED as follows:

6 **FINDINGS**

- 7
- 8 1. This Court has jurisdiction over this matter.
 - 9 2. The Complaint charges that Defendant participated in deceptive acts or practices in
10 violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with its false, misleading,
11 or unsubstantiated claims regarding driver earnings and its Vehicle Program.
 - 12 3. Defendant neither admits nor denies any of the allegations in the Complaint, except as
13 specifically stated in this Order. Only for purposes of this action, Defendant admits the facts
14 necessary to establish jurisdiction.
 - 15 4. Defendant waives any claim that it may have under the Equal Access to Justice Act, 28
16 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and
17 agree to bear its own costs and attorney fees.
 - 18 5. Defendant and the Commission waive all rights to appeal or otherwise challenge or
19 contest the validity of this Order.

20 **DEFINITIONS**

21 For the purpose of this Order, the following definitions apply:

- 22
- 23 A. “**App**” shall mean any software application or code that can be transmitted or
24 downloaded to any mobile device. “**App**” also includes any software referred to as an

25 **STIPULATED ORDER**

26 **PAGE 2**

27

1 “App” or “MobileApp” by Defendant in the course of its communications or business practices,
2 or in any App Store.

3 B. “**Defendant**” means Uber Technologies, Inc. and its successors and assigns.

4 C. “**Driver**” means someone who receives transportation requests from members of the
5 public using Defendant’s App.

6 D. “**Vehicle Program**” means a program offering or advertising motor vehicles or motor
7 vehicle financing or leasing.
8

9 **ORDER**

10 **I. PROHIBITION AGAINST MISREPRESENTATIONS**

11 IT IS ORDERED that Defendant, Defendant’s officers, agents, employees, and
12 attorneys, and all other persons in active concert or participation with any of them, who receive
13 actual notice of this Order, whether acting directly or indirectly, in connection with promoting
14 or offering for sale any good or service are permanently restrained and enjoined from:

15 A. making any misrepresentation, or assisting others in making any misrepresentation,
16 expressly or by implication, regarding:

- 17
- 18 1. the income a Driver is likely to earn;
 - 19 2. the terms and conditions of financing or leasing, whether offered by Uber or
20 another entity; and
 - 21 3. the terms and conditions of any Vehicle Program.

22 B. making any representation, or assisting others in making any representation, expressly or
23 by implication, unless the representation is non-misleading, and, at the time such representation
24 is made, Defendant possesses and relies upon competent and reliable evidence that is sufficient
25 in quality and quantity to substantiate that the representation is true, regarding:

- 26
- 27 1. the income a consumer is likely to earn as a Driver;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

31 U.S.C. §7701.

G. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendant’s practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendant has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

III. DRIVER INFORMATION

IT IS FURTHER ORDERED that Defendant, Defendant’s officers, agents, employees, and attorneys and all others in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from directly or indirectly failing to provide sufficient Driver information to enable the Commission to efficiently administer consumer redress. Defendant represents that it will provided this redress information to the Commission. If a representative of the Commission requests in writing any information related to redress, Defendant must provide it, in the form prescribed by the Commission, within 14 days.

IV. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this Order:

A. Defendant, within 7 days of entry of this Order, must submit to the Commission an

1 acknowledgment of receipt of this Order sworn under penalty of perjury.

2 B. For 5 years after entry of this Order, Defendant must deliver a copy of this Order to: (1)
3 all principals, officers, and directors; (2) all employees, agents, and representatives who
4 participate in marketing, promotion, offering of any good or service offered by the Defendant or
5 a third party relating to the activities covered in this Order and (3) any business entity resulting
6 from any change in structure as set forth in the Section titled Compliance Reporting. Delivery
7 must occur within 7 days of entry of this Order for current personnel. For all others, delivery
8 must occur before they assume their responsibilities.

9 C. From each individual or entity to which Defendant delivered a copy of this Order,
10 Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this
11 Order.
12

13 V. COMPLIANCE REPORTING

14 IT IS FURTHER ORDERED that Defendant make timely submissions to the
15 Commission:

16 A. One year after entry of this Order, Defendant must submit a compliance report, sworn
17 under penalty of perjury: (a) identify the primary physical, postal, and email address and
18 telephone number, as designated points of contact, which representatives of the Commission
19 may use to communicate with Defendant; (b) identify all of Defendant's businesses by all of
20 their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe
21 the activities of each business, including the goods and services offered, the means of
22 advertising, marketing, and sales; (d) describe in detail whether and how Defendant is in
23 compliance with each Section of this Order; and (e) provide a copy of each Order
24 Acknowledgment obtained pursuant to this Order, unless previously submitted to the
25 Commission.
26
27

1 B. For 9 years after entry of this Order, Defendant must submit a compliance
2 notice, sworn under penalty of perjury, within 14 days of any change in the following: (a) any
3 designated point of contact; or (b) Defendant’s structure or that of any entity Defendant has any
4 ownership interest in or controls directly or indirectly that may affect compliance obligations
5 arising under this Order, including: creation, merger, sale, or dissolution of the entity or any
6 subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.
7

8 C. Defendant must submit to the Commission notice of the filing of any bankruptcy
9 petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14
10 days of its filing.

11 D. Any submission to the Commission required by this Order to be sworn under penalty of
12 perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I
13 declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full
15 name, title (if applicable), and signature.
16

17 E. Unless otherwise directed by a Commission representative in writing, all submissions to
18 the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by
19 overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau
20 of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,
21 Washington, DC 20580. The subject line must begin: *FTC v. Uber Technologies Inc.*

22 **VI. RECORDKEEPING**

23 IT IS FURTHER ORDERED that Defendant must create certain records for 9 years
24 after entry of the Order, and retain each such record for 5 years. Specifically, Defendant must
25 create and maintain the following records:

26 A. accounting records showing the revenues from all goods or services sold;
27

1 B. personnel records showing, for each person providing transportation services, whether as
2 an independent contractor, employee or otherwise, that person's: name; addresses; telephone
3 numbers; job title or position; dates of service; and (if applicable) the reason for termination of
4 the relationship;

5 C. records of all Driver complaints relating to Driver earnings or the Vehicle Program
6 whether received directly or indirectly, such as through a third party, and any response;

7 D. all records necessary to demonstrate full compliance with each provision of this Order,
8 including all submissions to the Commission; and

9 E. a copy of each unique advertisement or other marketing material relating to the amount
10 of money Drivers can earn driving on the Uber platform or the Vehicle Program.

11
12 **VII. COMPLIANCE MONITORING**

13 IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's
14 compliance with this Order, including the financial representations upon which the judgment
15 was suspended and any failure to transfer any assets as required by this Order:

16 A. Within 14 days of receipt of a written request from a representative of the Commission,
17 Defendant must: submit additional compliance reports or other requested information, which
18 must be sworn under penalty of perjury; appear for depositions; and produce documents for
19 inspection and copying. The Commission is also authorized to obtain discovery, without further
20 leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29,
21 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

22 B. For matters concerning this Order, the Commission is authorized to communicate
23 directly with the Defendant. Defendant must permit representatives of the Commission to
24 interview any employee or other person affiliated with any Defendant who has agreed to such
25 an interview. The person interviewed may have counsel present.
26
27

1 C. The Commission may use all other lawful means, including posing, through its
2 representatives as consumers, suppliers, or other individuals or entities, to Defendant or any
3 individual or entity affiliated with Defendant, without the necessity of identification or prior
4 notice. Nothing in this Order limits the Commission's lawful use of compulsory process,
5 pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.
6

7 **VIII. RETENTION OF JURISDICTION**

8 IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for
9 purposes of construction, modification, and enforcement of this Order.

10 **SO ORDERED** this ___ day of _____, 2017.

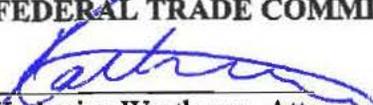
11 _____
12

13 UNITED STATES DISTRICT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1 **SO STIPULATED AND AGREED:**

2 **FOR PLAINTIFF:**

3 **FEDERAL TRADE COMMISSION**

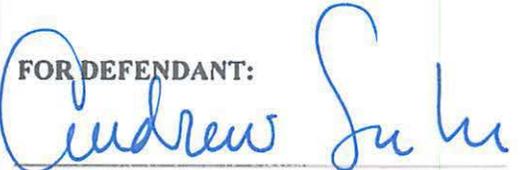
4 
5 Katherine Worthman, Attorney
6 Federal Trade Commission
7 Seattle, WA 98174
8 202-326-2929 (phone)
202-326-3768 (fax)
kworthman@ftc.gov

Date: 1/19/17

9 Ioana Rusu, Attorney
10 Federal Trade Commission
11 Washington, DC 20580
12 202-326-2788 (phone)
202-326-3768 (fax)
irusu@ftc.gov

13 Colin Hector, Attorney
14 Federal Trade Commission
15 901 Market Street, Suite 570
16 San Francisco, CA 94103
415-848-5100 (phone)
415-848-5184 (fax)
chector@ftc.gov
17 **FEDERAL TRADE COMMISSION**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

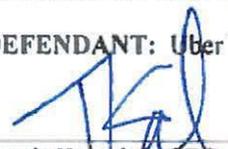
FOR DEFENDANT:


Date: 1/18/2017

Andrew Smith
John Graubert
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
202-662-5049 (phone) (Smith)
202-662-5938 (phone) (Graubert)
202-778-5938 (fax)
andrewsmith@cov.com
jgraubert@cov.com

COUNSEL For Uber Technologies Inc.

DEFENDANT: Uber Technologies Inc.



Date: 1/18/2017

Travis Kalanick, CEO
Uber Technologies, Inc.
San Francisco, CA 94103