



September 21, 2017

Via Electronic Mail Only

Please Provide a Copy to the Port Board in Advance of the September 28, 2017 Meeting

Board of Port Commissioners
530 Water Street
Oakland, CA 94607

RE: September 28, 2017 Board of Port Commissioners Meeting: File No. 279-1, Agenda No. 5.1
Ordinance: Amending and Restating Rules and Regulations for Oakland International Airport, Including Amendments to Transportation Network Company ("TNC") Provisions and Ground Transportation Fees, To Be Effective January 1, 2018, and Extending TNC Commercial Ground Transportation Non-Exclusive Operating Permits with Rasier-CA, LLC (dba Uber), Lyft, Inc., and Tickengo, Inc. (dba Wingz) Through December 31, 2017. (Aviation)

Dear Board of Port Commissioners:

I am writing on behalf of Rasier, LLC ("Rasier"). Rasier is a transportation network company and subsidiary of Uber Technologies, Inc. ("Uber"). Rasier contracts with independent driver partners who use the Uber smartphone application ("Uber app") to receive trip requests from passengers. Rasier is writing to the Board of Port Commissioners ("Board") regarding its vote on *File No. 279-1, Agenda No. 5.1 Ordinance: Amending and Restating Rules and Regulations for Oakland International Airport, Including Amendments to Transportation Network Company ("TNC") Provisions and Ground Transportation Fees, To Be Effective January 1, 2018, and Extending TNC Commercial Ground Transportation Non-Exclusive Operating Permits with Rasier-CA, LLC (dba Uber), Lyft, Inc., and Tickengo, Inc. (dba Wingz) Through December 31, 2017. (Aviation)* ("Proposed Rules Affecting TNCs"), which is scheduled to be heard at the September 28, 2017 Board Meeting.

Rasier is appealing to the Board to postpone its vote until certain language contained within the Proposed Rules Affecting TNCs at Oakland International Airport ("Airport") that directly affect Rasier's ability to operate at the Airport, have been changed.

The discrete language at issue is contained within Sections: 8.3(a)(5); 8.3(b)(5); 8.3(c); 8.3(c)(7)(C), and 8.3(c)11 of the Rules and Regulations for the Airport and pertains to TNC Permit Holder and TNC driver compliance. The pertinent parts are provided below:

Section 8.3 TNC Permitting

(a) TNC Permit Overview

5. The TNC Permit Holder shall comply *(and ensure that all of its TNC drivers comply)* with all applicable, federal, state and local laws ordinances rules, regulations and directives, as they may be amended from time to time (collectively, "Laws")... *emphasis added*

(b) TNC Permit Application and Renewals

5. All TNC Permit Holders shall use commercially reasonable efforts *to ensure that its TNC Drivers review and follow* these Rules and Regulations... *emphasis added*

(c) Transportation Requirements

All TNC Permit Holders shall strictly comply with *and shall ensure that all of its TNC Drivers strictly comply* with the following requirements, which are in addition to all other applicable requirements under these Rules and Regulations. *emphasis added*

7. Trade Dress and Removable Airport Permit Identifier

(c) Removal. In the event that a TNC Driver is removed from the TNC Permit Holder's internal list of drivers authorized to operate at the Airport under the TNC Permit, the TNC Permit Holder shall immediately remove the TNC Vehicle from the TNC Permit Holder's internal list of authorized vehicles,... and take reasonable efforts *to ensure that the TNC Driver removes* the placard from the TNC Vehicle (if any placard is required). *emphasis added*

11. TNC Driver Training

The TNC Permit Holder shall be solely responsible *for ensuring that its TNC Drivers understand* the Airport's approved locations for passenger drop-off and pick-up... *emphasis added*

The language as currently written in the sections provided above places a requirement on Rasier as TNC Permit Holder to "ensure" that TNC Drivers will or will not do something. This requirement dictates action by the TNC Permit Holder that is tantamount to directing or controlling a TNC driver. This requirement fundamentally contradicts the independent contractor contractual relationship between Rasier and TNC drivers, which is a critical underpinning of the TNC business model that ensures TNC drivers maintain the flexibility of being able to transition onto the Uber app (or a competitor app) seamlessly at any time a driver finds him or herself available to do a pick up or drop off. This is vital in allowing TNC partners to "be their own boss" and to the provision of a sustained supply of safe and reliable transportation options for the traveling public at the Airport. Unfortunately, the language in the Rules and Regulations as currently written is inherently inconsistent with the TNC business model and Rasier cannot adhere to these requirements.

We do believe that Rasier and the Airport can agree upon language that works for both parties and that accomplishes the Airport's goals. Rasier as a TNC Permit Holder agrees to comply with all applicable federal, state and local laws, rules and regulations, transportation and training requirements, and other airport operating directives as explicitly provided within these sections. Rasier also will agree to notify TNC drivers to comply with same. Upon notification of non-compliance by TNC drivers, Rasier will also explicitly agree to take appropriate action up to and including precluding the TNC driver's ability to

accept Airport pick-ups/drop-offs through the Uber app, and even potential permanent deactivation from the Uber app if the situation warrants. However, the current language must be changed to accurately reflect these commitments by Rasier and to align with the TNC business model, and that is why we appeal to the Board to delay its vote.

Rasier values its relationship with the Airport immensely and has engaged in several months of productive discussions with OAK Airport staff on these Proposed Rules Affecting TNCs in good faith, yet this final critical issue remains unresolved. We welcome the opportunity to discuss this issue with the Board and any of its members prior to the September 28, 2017 meeting, and of course are open to additional discussions on appropriate language with the Airport in order to ensure that the Proposed Rules Affecting TNCs are written so as to allow Rasier to continue operating at the Airport.

We greatly appreciate the Board's consideration of our request for postponement of the vote on the Proposed Rules Affecting TNCs until this key issue gets resolved.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Hartley', with a stylized, cursive script.

Stephen Hartley
General Manager
Uber Technologies, Inc.
stephen.hartley@uber.com

The discrete language at issue is contained within Sections: 8.3(a)(5); 8.3(b)(5); 8.3(c); 8.3(c)(7)(C), and 8.3(c)11 of the Rules and Regulations for the Airport and pertains to TNC Permit Holder and TNC driver compliance. The pertinent parts are provided below:

Section 8.3 TNC Permitting

(a) TNC Permit Overview

5. The TNC Permit Holder shall comply *(and ensure that all of its TNC drivers comply)* with all applicable, federal, state and local laws ordinances rules, regulations and directives, as they may be amended from time to time (collectively, "Laws")... *. emphasis added*

(a) TNC Permit Overview

5. The TNC Permit Holder **shall cause its use of the Airport and its operations under this Permit to comply with** all applicable, federal, state and local laws ordinances rules, regulations and directives, as they may be amended from time to time (collectively, "Laws")... *. new language bolded- mirrors SFO language*

(b) TNC Permit Application and Renewals

5. All TNC Permit Holders shall use commercially reasonable efforts *to ensure that its TNC Drivers review and follow* these Rules and Regulations... *. emphasis added*

(b) TNC Permit Application and Renewals

5. All TNC Permit Holders **shall notify TNC Drivers of their requirement to review and, at all times, follow** these Rules and Regulations... *. new language bolded- tracks SFO language*

(c) Transportation Requirements

All TNC Permit Holders shall strictly comply with *and shall ensure that all of its TNC Drivers strictly comply* with the following requirements, which are in addition to all other applicable requirements under these Rules and Regulations. *emphasis added*

(c) Transportation Requirements

All TNC Permit Holders and all TNC Drivers shall strictly comply with the following requirements, which are in addition to all other applicable requirements under these Rules and Regulations. *New language bolded- tracks SFO language*

7. Trade Dress and Removable Airport Permit Identifier

(c) Removal. In the event that a TNC Driver is removed from the TNC Permit Holder's internal list of drivers authorized to operate at the Airport under the TNC Permit, the TNC Permit Holder shall immediately remove the TNC Vehicle from the TNC Permit Holder's internal list of authorized vehicles,... and take reasonable efforts to ensure that the TNC Driver removes the placard from the TNC Vehicle (if any placard is required). *No change-ok*

11. TNC Driver Training

The TNC Permit Holder shall be solely responsible *for ensuring that its TNC Drivers understand the Airport's approved locations for passenger drop-off and pick-up...* . *emphasis added*

11. TNC Driver Training

The TNC Permit Holder shall be solely responsible for **notifying its TNC Drivers of the Airport's approved locations for passenger drop-off and pick-up and taking appropriate action if informed by the Airport of a TNC Driver's failure to drop-off and pick-up at the approved locations ...** . *new language bolded*