

SAN MATEO COUNTY TRANSIT DISTRICT

2019 SamTrans Way2Go Pass Agreement: Company

Company Name: _____

Address: _____

Legal Notice Address (if different from above): _____

Contact Person: _____ E-mail: _____

Phone: _____ Fax: _____

Number of Employees: _____ Number of Worksites: _____

Total Payment: _____

All staff working more than 20 hours per week, excluding contractors, consultants, interns and temporary employees are considered "Employees" for the purpose of this Agreement.

Agreement Term: January 1, 2019 through December 31, 2019

Company agrees to the attached terms and conditions.

XXX*

SAN MATEO COUNTY TRANSIT DISTRICT

By: _____

By: _____

Print Name: _____

Print Name: Seamus P. Murphy

Its: _____

Its: Chief Communications Officer

By: _____

Print Name: _____

Its: _____

S A M P L E

** If Company is a corporation, two corporate officers must sign on behalf of the corporation as follows: 1) the chairman of the board, president or vice-president; and 2) the secretary, assistant secretary, chief financial officer, or assistant treasurer. In the alternative, this Agreement may be executed by a single officer or a person other than an officer provided that evidence satisfactory to District is provided demonstrating that such individual is authorized to bind the corporation (e.g. a copy of a certified resolution from the corporation's board or a copy of the corporation's bylaws).*

Terms and Conditions

This Way2Go Pass Agreement (“Agreement”) is made between the San Mateo County Transit District (“District”) and the company (“Company”) identified on page 1 of this Agreement.

- 1. PAYMENT:** Full payment for all Way2Go stickers shall be due prior to District issuing stickers. The total cost of participating in the Way2Go program will be the greater of \$12,500 or \$125 per Employee. If the number of Employees increases during 2019, the cost of additional Way2Go passes will be pro-rated based on the pro-rata schedule on page 6 of this Agreement. Company may share the cost of participation in the Way2Go program with its Employees, but the cost to a particular Employee cannot be higher than the first-time replacement fee stated in Section 10. Participant must submit payment for any invoice within 30 days of the date shown on the invoice. Payments submitted 60 days after the date shown on the invoice will be charged a late fee of \$5 per day until the invoice balance and late fees are paid in full. Accepted payment methods include ACH, EFT and Company paper checks. Personal employee checks aren’t accepted.
- 2. PROGRAM:** The District operates the SamTrans bus service within San Mateo County and parts of San Francisco and Santa Clara counties and desires to provide SamTrans bus service to all of the Company’s regular employees working more than 20 hours per week (hereafter referred to as “Employees”) in the form of a sticker affixed to a valid Company-issued employee photo identification card (hereafter referred to as “Way2Go Pass”), which will be distributed by the Company to its Employees. The Way2Go passes will be valid for the agreement term identified on page 1 of this Agreement. District desires to facilitate the Way2Go Program (hereafter referred to as “Program”) by providing the necessary stickers and accepting them as valid fare media for travel on the SamTrans bus system.
- 3. ELIGIBLE PARTICIPANTS:** Only individual companies are eligible to participate in the Program. Companies with multiple locations, branches or campuses, are eligible to participate in the Program and must provide an employee count for each individual site (“Participating Site”). However, such companies must enroll in the Program under a single Way2Go Agreement and designate a single corporate contact and administrator. Such company’s employees at non-participating locations are not eligible to participate in the Program.
- 4. ELIGIBLE EMPLOYEE VERIFICATION:** Company must purchase Way2Go passes for each and every Employee at each Participating Site. Company will be required, prior to the delivery of Way2Go passes, to provide District with a Letter of Intent (“Letter”) signed by a Human Resources Director or an officer of the Company verifying the then-current number of Employees of the Company at each Participating Site. If there are multiple Participating Sites, the Letter must indicate the individual worksite address and the number of then-current Employees at each Participating Site. Neither Company nor any of its affiliates shall be required to participate in the Program with respect to other work sites other than the Participating Site(s) identified in the letter.
- 5. SURVEY:** Prior to affixing the Way2Go sticker to the Employee’s Company-issued ID card, Company shall require each Employee receiving a Way2Go Pass, for the first time, to complete an online questionnaire. Once the survey is complete, Company administrator will receive an e-mail confirmation from the Employee via the District. As part of completing the survey, the Employee will be required to acknowledge that he or she understands the proper use of the Way2Go Pass. The surveys may be used to analyze the success of the Program and develop ridership projections for the Program. The surveys are subject to disclosure under requests made pursuant to the California Public Records Act. However, prior to disclosing surveys, any identifying information concerning the Company and/or the Employee shall be redacted.
- 6. WAY2GO PASS IDENTIFICATION:** Company must have an official Company-issued photo ID card (“ID card”) in order to participate in the Program and must supply a copy of that ID card to the District for review. Any company that doesn’t have a photo ID card must create one. The ID card must display a clear employee photo, employee name, have a 1” x 1” square space for the Way2Go Pass sticker and display the Company name, logo or both. The ID card cannot contain District’s logo as part of the

design. If the ID card changes, it is the Company's responsibility to submit the new version to the District. The District will produce and issue serialized Way2Go Pass stickers, which will be distributed to Company so that Company can affix them to the ID card. Company shall place the Way2Go Pass sticker on each eligible Employee's ID card, on the front; Company shall not distribute the Way2Go Pass stickers to Employees, as this practice may lead to unauthorized use of the sticker. Company shall be responsible for retaining the Employee's ID card or removing the Way2Go Pass sticker from an Employee's ID card when an Employee Way2Go Pass holder leaves the employment of the Company or relocates to non-participating location. Returned ID cards or stickers shall be presented to the District for verification upon request. A photocopy of the identification card with the Way2Go Pass sticker attached is acceptable as proof that the Way2Go Pass is no longer in use by an Employee who has left the employment of Company. All Way2Go Pass stickers allotted to the Company at the beginning of the Company's participation in the Program that are not issued to Employees are to be returned to the District by December 15 of the Agreement year. Way2Go sticker is District's property.

7. **PROMOTION:** Company is required to promote SamTrans service to its Employees and to arrange for District staff to be onsite at least once to provide SamTrans service and Way2Go Program information.
8. **PROGRAM RECORDS:** Company will create and maintain a file of documents to be available for review upon District request ("Way2Go File"). The Way2Go file must include a report listing the qualifying Employees by name as of the date this Agreement is signed. The Company shall maintain in its Way2Go Pass File a log ("Way2Go Log") of its Employees who currently hold Way2Go passes. The Way2Go Log shall include each Employee's first and last name, unique serial number for the individual pass each Employee holds, Way2Go Pass status (i.e. active, lost, damaged, etc.), date of issue, date of Employee separation, if applicable, and any other pertinent information.
9. **PROGRAM ANALYSIS AND AUDIT:** District reserves the right to audit any internal Company Way2Go Program associated records, including Company's Way2Go File and Way2Go Log at any point during the term of this Agreement with five (5) working days' notice to the Company. The purpose of the audit is to ensure appropriate accounting and distribution of Way2Go passes. A current detailed list of qualifying Employees shall be provided to District upon request. Within 10 working days of any audit report, Company must, in conjunction with District staff, develop a mutually agreeable action plan to satisfy any audit findings. If no mutually agreeable plan can be developed, District may terminate this Agreement upon 10 days' notice and Company shall make every good faith effort to collect all Way2Go passes that have been distributed to Employees, and so verify in writing to District. In case of termination pursuant to Section 13, District will refund to Company a pro-rata portion of the fee paid by Company according to the schedule attached to this Agreement as Exhibit A and incorporated into this Agreement by this reference, provided that, within 10 working days of the effective termination date Company returns all undistributed and collected Way2Go passes to District.
10. **LOST, STOLEN, DAMAGED AND REPLACEMENT WAY2GO PASSES:** For lost or stolen Way2Go passes, District will charge a \$125 first-time replacement fee for each lost or stolen Way2Go Pass. Company must submit to District documentation including the Way2Go Pass serial number. For stolen Way2Go passes, District will replace the Way2Go Pass at no additional charge provided that a police report is supplied to District describing the Way2Go Pass as stolen. If the same Employee loses the Way2Go Pass or has the Way2Go Pass stolen a second time, the replacement fee will be \$250 regardless of whether a police report is provided to District. If a replacement Way2Go Pass is issued and then the original is found, District will not provide a refund. Company may not resell the Way2Go passes to Employees at a rate higher than the replacement fee. A Way2Go Pass may not be replaced a third time.

For Damaged Way2Go Passes: If the Company or an Employee damages an ID card and thus renders the Way2Go sticker unusable, or if the sticker itself is damaged, a replacement Way2Go sticker may be issued to the Employee or taken from the Company's Way2Go inventory, provided that the Company documents that the Way2Go sticker has been taken out of circulation in its Way2Go File. Company must retain the damaged ID card or Way2Go sticker in its Way2Go File. If no additional stickers remain in the Company inventory, the Company shall return damaged Way2Go stickers or ID cards, or a

photocopy, with complete documentation to the District prior to the District issuing a replacement Way2Go sticker to Company at no charge. This courtesy will be extended no more than two times per Employee per calendar year, after which the replacement cost for a damaged Way2Go sticker will be \$125.

For Separated Employees: If the Employee separates with the Company, Company shall retain the separated ID card or Way2Go sticker in its Way2Go File and document that the Way2Go sticker has been taken out of circulation in its Way2Go Log (See Section 8 above). If no additional stickers remain in the Company inventory, the Company shall return separated employee Way2Go stickers or ID cards, or a photocopy, prior to the District issuing a replacement Way2Go sticker to Company at no charge.

For Missing Way2Go Passes: Company shall be responsible for safeguarding the Way2Go stickers prior to distribution to Employees and shall be liable for any loss of Way2Go stickers. Replacement Way2Go stickers shall be issued under the terms set forth above governing lost Way2Go passes.

Company must complete a quarterly report and submit payment to District for all lost, stolen or damaged Way2Go passes for which payment is due (See Section 11).

- 11. REPORTING:** Company must submit a report to District by March 1, June 1, September 1 and December 1 during the agreement term as stated on page one. The report must list all lost, stolen, damaged and replacement Way2Go passes issued and separated Employees. It should include the reason for replacement, if applicable, Employee name and corresponding Way2Go Pass serial number and the current number of Employees working at the Participating Site(s) enrolled in the program. Company may submit its Way2Go Log (Section 8 above) in lieu of the report.
- 12. ELIGIBLE SERVICE:** The Way2Go Pass shall be valid for full fare on all SamTrans regular fixed-route service. Special service is excluded from the Program.
- 13. TERMINATION:** Either party may terminate this Agreement by giving the other party written notice at least 60 days prior to the desired termination date, which shall be the last day of a calendar month. If either party terminates the Agreement pursuant to this provision, District shall return the pro-rata portion of the fee paid by Company (specified on the cover page of this Agreement) according to the schedule attached to this Agreement as Exhibit A, within 30 days after the termination date, provided that within 10 working days of the effective termination date Company complies with the requirements for collection and return of Way2Go passes specified in Section 10. District may terminate this Agreement with 15 days' notice for non-compliance. In the event of termination for non-compliance, District shall not return the pro-rata portion of the fee described in this section. This Agreement shall automatically terminate, with no pro-rata payment to Company, if Company discontinues business. It will be up to the Company to notify its Way2Go Pass holders that the Way2Go Pass will no longer be valid. In the event that employees continue to use invalid Way2Go Passes, District will confiscate such passes in accordance with Section 14.
- 14. MISUSE OF WAY2GO PASS:** All Way2Go Pass holders shall be subject to District's fare regulations. District may confiscate the Way2Go Pass stickers and pursue claims or demands against, or seek prosecution of, anyone who duplicates, alters, or commits unauthorized use of the Way2Go Pass. District agrees not to pursue any claims or demands against Company for an Employee's misuse of the Way2Go Pass, or for issuing the Way2Go Pass based on any counterfeiting or alleged counterfeiting of the Way2Go Pass, unless the counterfeiting event is the result of Company's gross negligence or willful misconduct. District may cancel any individual Way2Go Pass if it has reason to believe that the Way2Go Pass was issued based on false information provided by Company or the Way2Go Pass has been given to a non-eligible person. District will notify Company if it has any such concerns and, after appropriate investigation, revoke those passes at issue. Company waives all remedies and rights to refunds for any Way2Go passes revoked for misuse. District will incur no liability resulting from confiscation of misused Way2Go Passes or Way2Go Passes from an employee whose Company's Agreement has been terminated.

- 15. PROTECTION OF PRIVACY:** The District contracts with a third-party online survey platform, currently SurveyGizmo, to facilitate Employee registration and agreement to the user terms and conditions of the Program, facilitate administration of the Program by the participating Company, and collect District usage information. Companies are directed to review SurveyGizmo's website and privacy policy for additional information regarding SurveyGizmo's data privacy and security provisions. District acknowledges that it may review data stored on the online survey platform that contains personally identifiable information (PII) or confidential information about the Employee ("Information") to administer the Way2Go Program. If requested by a Participant's Way2Go administrator, the District may share a list of Way2Go Program Employee names with the Company administrator directly from the online survey platform. The District does not store any PII collected through the Way2Go Program on its servers. Except as required to administer the Way2Go Program in accordance with this Agreement or as otherwise required by law, District agrees not to use or to disclose to third parties the Information. Notwithstanding the foregoing, District may use and disclose to third parties information in an aggregate format that does not personally identify an Employee.
- 16. ENTIRE AGREEMENT:** This contract contains the entire Agreement between the parties hereto for the term stated and cannot be changed or altered except by written agreement signed by both parties hereto. Neither party shall be bound by any oral agreement or other understandings contrary to or in addition to the terms and conditions as stated herein.
- 17. SUCCESSORS AND ASSIGNS:** The terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of Company and District and, except as otherwise provided herein, their personal representatives and successors and assigns.
- 18. NO THIRD-PARTY BENEFICIARIES:** There are no third-party beneficiaries to this Agreement.
- 19. NO JOINT VENTURE:** It is expressly agreed that Company is not, in any way or for any purpose, a partner of District in the conduct of District's business or a member of a joint enterprise with District, and does not assume any responsibility for District's conduct or performance of this Agreement. It is expressly agreed that District is not, in any way or for any purpose, a partner of the Company in the conduct of Company's business or a member of a joint enterprise with Company, and does not assume any responsibility for Company's conduct or performance of this Agreement.
- 20. ATTORNEYS' FEES:** In the event that either District or Company fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other Party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. Time is of the essence with respect to all provisions of this Agreement in which a definite time for performance is specified.
- 21. NOTICES:** All notices, requests, communications and legal notices to be made or given to Company under this Agreement shall be addressed as shown on page 1 of this Agreement. All notices, including legal notices, communications and requests to be made or given to the District shall be addressed as follows:

San Mateo County Transit District
1250 San Carlos Avenue
San Carlos, CA 94070-1306
Attn: Market Research and Development

Exhibit A

Proration Schedule – New Participants and Terminated Employees

Effective Date (falling in month)	Total Fee per Employee (More than the Minimum)	Total Fee per Employee (Less than the Minimum)
January	None	None
February	\$114.58	\$11,458.33
March	\$104.17	\$10,416.67
April	\$93.75	\$9,375
May	\$83.33	\$8,333.33
June	\$72.92	\$7,291.67
July	\$62.50	\$6,250
August	\$52.08	\$5,208.33
September	\$41.67	\$4,166.67
October	\$31.25	\$3,125
November	\$20.83	\$2,083.33
December	\$10.42	\$1,041.67

SAMPLE