

**SAN MATEO COUNTY TRANSIT DISTRICT**  
**2019 SamTrans Way2Go Pass Agreement: Residential Complex**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Legal Notice Address (if different from above): \_\_\_\_\_

Contact Person: \_\_\_\_\_ E-mail: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Participating Site/Development Name: \_\_\_\_\_

Participating Site/Development Address: \_\_\_\_\_

Number of Residents:

Number of Participating Sites/Developments:

Total Payment:

All residents five years old and older are considered "Residents" 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: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: Seamus P. Murphy  
Its: Chief Communications Officer

S A M P L E

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

*\* 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:** Company shall submit full payment for all Way2Go passes prior to District issuing Way2Go passes. The total cost of participating in the Way2Go program will be the greater of \$12,500 or \$125 per Resident. If the number of Residents increases during 2019, the cost of the additional Way2Go passes will be pro-rated based on the pro-rata schedule on page 5 of this Agreement. Company may share the cost of participation in the Way2Go program with its Residents, but the cost to a particular Resident 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 resident 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 for all of the eligible residents at the residential facility identified on page 1 of this Agreement (hereinafter referred to as the "Development"), in the form of a photo ID card that is swiped through the farebox (hereafter referred to as "Way2Go Pass"), which will be distributed by the Company to its residents ("Residents"). 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 Way2Go passes 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 developments must provide a Resident count for each individual residential site that is participating ("Participating Site"). However, such companies must enroll in the Program under a single Way2Go Agreement and designate a single corporate contact and administrator. Such companies' residents at non-participating locations are not eligible to participate in the Program. Employees of the Development and its parent Company, as well as guests of the Development are not eligible to participate in the Program. Neither Company nor its affiliates shall be required to participate in the Program with respect to other Developments other than the Participating Site(s) identified in the Letter described in Section 4.
- 4. RESIDENT VERIFICATION:** Company must purchase Way2Go passes for each and every Resident age five years and older. Company will be required, prior to the delivery of Way2Go passes, to provide District with a letter signed by the Development Manager verifying the then-current number of Residents. If there are multiple Participating Sites, the Letter must indicate the individual Participating Site's name, address and the number of then-current Residents at each Participating Site.
- 5. SURVEY:** As a condition of participation, each adult Resident must complete an online survey for themselves and any eligible minor member of their household prior to the receipt of their first Way2Go Pass. Company will conduct the District-provided survey online and notify District when Residents have completed the survey so a Way2Go Pass can be created. For each completed Way2Go Pass survey, the District will provide Company with a 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 Residents shall be redacted.
- 6. WAY2GO PASS IDENTIFICATION:** The Company will be responsible for photographing, in the format determined by District, each new Resident who wants to participate in the Way2Go program and forwarding the digital photo to District to produce a Way2Go Pass. Photos must be a clear headshot of Resident and have minimum 300 dpi resolution. District will then provide to Company for distribution to Residents valid Way2Go passes. Way2Go Pass is District's property.
- 7. PROMOTION:** Company is required to promote SamTrans service to its Residents 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 Residents 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 Residents who hold Way2Go passes. The Way2Go Log shall include each Resident's first and last name, unique serial number for the individual pass each Resident holds, Way2Go Pass status, date of issue, date of Resident vacating the property and any other pertinent information.
- 9. PROGRAM ANALYSIS AND AUDIT:** District reserves the right to audit any internal Company Way2Go-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 Residents 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 Residents, 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 Resident 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 Residents at a rate higher than the replacement fee. A Way2Go Pass will not be issued a third time.

For Damaged Way2Go Passes: If the Company or a Resident damages a Way2Go Pass, a replacement Way2Go Pass may be issued to the Company provided that the Company returns the damaged Way2Go Pass, or a photocopy, with complete documentation to District prior to District issuing a replacement to Company at no charge. This courtesy will be extended no more than two times per Resident per calendar year, after which the replacement cost for a damaged Way2Go Pass will be \$125.

For Leaving Residents: The Company shall be responsible for collecting the Way2Go Pass when a Way2Go Pass holder ceases to be a Resident. Returned passes shall be presented to District each quarter. For each such Way2Go Pass returned to District, and so long as the total number of Residents does not increase, District shall issue, at no charge to Company, a new Way2Go Pass, valid for the remainder of the current calendar year, for a new Resident. If Company, after a good faith effort, cannot collect an issued Way2Go Pass from a former Resident, District shall issue a new Way2Go Pass to a new Resident upon Company's payment of \$125 fee.

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

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

- 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 Residents. It should include the reason for replacement, if applicable, Resident name and corresponding Way2Go Pass serial number and the current number of

Residents residing at the Participating Site enrolled in the program. Company may submit its Way2Go Log (Section 8 above) in lieu of the quarterly 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 effective 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 residents 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 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 a Resident'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 a resident 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 Resident 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 Resident ("Information") to administer the Way2Go Program. If requested by a Company's Way2Go administrator, the District may share a list of Way2Go Program Resident names with the 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 a Resident.

- 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

S A M P L E

Exhibit A

**Proration Schedule – New Participants and Terminated Residents**

<b>Effective Date (falling in month)</b>	<b>Total Fee per Resident (More than the Minimum)</b>	<b>Total Fee per Resident (Less than the Minimum)</b>
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

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