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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

LENZA H. MCELRATH III, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC.

Defendant.

Case No.

CLASS ACTION

COMPLAINT FOR BREACH OF CONTRACT, BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING, FALSE PROMISE, INTENTIONAL MISREPRESENTATION, VIOLATION OF CALIFORNIA LABOR CODE § 970, AND VIOLATION OF UNFAIR COMPETITION LAW

DEMAND FOR JURY TRIAL

Plaintiff Lenza H. McElrath III ("Plaintiff"), individually and on behalf of all others similarly situated, alleges as follows:

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INTRODUCTION

1. To fuel its meteoric rise, Defendant Uber Technologies, Inc. ("Uber" or "Defendant") devised a fraudulent scheme to recruit highly sought software engineers and others by promising in its standardized Employment Agreements the most valuable type of stock options (Investment Stock Options – "ISOs") and guaranteeing ISO treatment to the maximum extent permitted by law. Stock options constitute the majority of Uber employees' compensation and are worth hundreds of millions of dollars, maybe more.

2. Yet, months after employees started work, Uber breached its Employment Agreements by systematically imposing a different exercisability schedule than contained in the Employment Agreements which, according to Uber, disqualified most of the options from ISO treatment while presumably affording Uber with millions of dollars of tax deductions. Uber also used this scheme to achieve an unfair competitive recruiting advantage over other technology companies competing for the same scarce labor pool. To make matters worse, after employees started work, Uber systematically imposed severe limits on the time frames that employees could exercise their options (which Uber terms "Trading Windows"), in further derogation of promises contained in its Employment Agreements.

3. Plaintiff is a senior software engineer employed by Uber. He brings this class action lawsuit against Uber individually and on behalf of other similarly situated employees who were promised ISOs but didn't get them, and who were precluded from exercising their stock options at the promised times.

JURISDICTION AND VENUE

4. Plaintiff is a resident of the State of Washington.

5. Uber is a corporation incorporated under the laws of the State of Delaware, having its principal place of business in San Francisco, California.

6. This Court has subject matter jurisdiction over the individual and class claims asserted in this action: a) under 28 U.S.C. § 1332(a)(1), because Plaintiff and Uber are citizens of different States and the amount in controversy exceeds $75,000, exclusive of interest and

costs; and b) under the Class Action Fairness Act (28 U.S.C. § 1332(d)), because the amount in controversy exceeds $5,000,000, exclusive of interest and costs, there are at least 100 class members, and at least one member of the proposed class is a citizen of a state different than Uber.

7. Venue is proper under 28 U.S.C. §§ 1391(b)(1) and (2) because Uber's principal executive offices are located within this District and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

FACTUAL ALLEGATIONS

Uber's Meteoric Rise

8. Uber is a worldwide online logistics and transportation network company headquartered in San Francisco, California. Uber develops, markets and operates the Uber mobile "app," which allows consumers with smartphones to submit a trip request, which the software program then automatically sends to the Uber driver nearest to the consumer, alerting the driver to the location of the customer. The Uber driver then picks up and drives the customer to his or her destination.

9. Founded in 2009, Uber's services today are available in over 66 countries and 500 cities worldwide. While reportedly having less than 600 employees at the end of 2013, Uber now has over 6,700 employees. (Plaintiff's reference to employees does not include Uber drivers for purposes of this action.) Uber today reportedly has a market cap in excess of $60 Billion.

The Value of ISOs as a Recruiting Tool

10. The Uber business model is dependent upon its ability to recruit talented software engineers and other employees. There is huge demand and competition for such technology workers with a limited pool of candidates. By far the most important recruiting tool for companies like Uber is the promise of company equity in the form of stock options. These options can be worth millions of dollars to an employee, potentially dwarfing the employee's salary.

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11. The Internal Revenue Code recognizes two types of employee stock options: Incentive Stock Options ("ISOs") and Non-Qualified Stock Options ("NSOs"). 26 U.S.C. §§ 421, 422. ISOs are much more valuable to the employee. Although both ISOs and NSOs give an employee the right to purchase a company's stock at a fixed ("exercise") price, the tax differences between ISOs and NSOs dramatically change the value of the compensation. An ISO is generally only taxed upon sale of the stock (not upon exercise of the option) and is also subject to favorable capital gains treatment. 26 U.S.C. §§ 421, 422. In contrast, NSOs are taxed much earlier – at the time of exercise – and at the employee's ordinary income tax rate upon exercise. 26 U.S.C. §83(a).

12. To exercise an NSO, an employee is required to pay the tax to the company (as a form of withholding) before he or she can complete the exercise. In the tech world and in this case, this tax is many times the strike price and can total hundreds of thousands of dollars, meaning that NSOs – unlike ISOs -- can impede an employee's ability to exercise the option depending on whether he or she has the financial resources to pay the tax. Because ISOs are favored by prospective employees, they act as a prime recruiting tool for tech companies. On the other hand, NSOs are more favorable to employers because the income generated by the employee upon exercise is treated as wages and is deductible on the company's income tax returns. 26 U.S.C. §83(h).

13. The exercisability schedule for ISOs is pivotal to retaining their ISO treatment under the legal interpretation imposed by Uber. This is because the Internal Revenue Code imposes a $100,000 limit on the total aggregate fair value of ISOs that are exercisable by an employee during any calendar year and deems the excess over $100,000 to be NSOs. To "the extent that the aggregate fair market value of stock with respect to which [ISOs] . . . are exercisable for the 1st time by any individual during any calendar year . . . exceeds $100,000, such options shall be treated as [NSOs]." 26 U.S.C. §422(d) (hereafter the "Disqualification Threshold").

14. Thus, if the ISOs are evenly exercisable over four years, the employee is guaranteed that the options will be treated as ISOs up to a maximum $400,000 (*i.e.*, $100,000 x

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4 years). On the other hand, if all of the ISOs are exercisable during one calendar year, Uber deems only the first $100,000 as ISOs and the remainder as NSOs.

Uber Promises ISOs to Recruit Employees

15. To propel its spectacular ascent, Uber induced Plaintiff and hundreds of other recruits to join Uber by promising them ISOs. Uber did so to stay competitive with or gain competitive advantage over its rival technology companies in the recruiting process.

16. Upon hiring, Uber entered into a standardized written employment agreement ("Employment Agreement") in substantially identical or similar form with each employee. Attached hereto as Exhibit A is a copy of this standardized Employment Agreement (here the one entered into with Plaintiff), which is incorporated herein by reference. The Employment Agreement stated that "Subject to the approval of the Company's Board of Directors (the "Board"), the Company ***shall grant you a stock option*** covering [stated number] shares of the company's common stock (The Option")," and that "***the Option will be an incentive stock option to the maximum extent allowed by the tax code***" (emphasis added). The Employment Agreement further specified a four-year vesting/exercisability schedule which guaranteed the ISOs would receive maximum ISO treatment:

> **"**The Option shall vest and become ***exercisable at the rate of 25% of the total number of option shares after the first 12 months of continuous service*** and the remaining option shares shall become vested and ***exercisable in equal monthly installments over the next three years of continuous service***." (emphasis added)

Uber Post-Hire Systematically Imposes A New Exercisability Schedule Relegating Most of the ISOs to NSOs

17. Months after starting work, Uber systematically gave each employee a standardized Notice of Stock Option Grant (the "Notice") in substantially identical or similar form. Attached hereto as Exhibit B is a copy of this standardized Notice (here the one given to Plaintiff), which is incorporated herein by reference. The Notice confirmed that the employee had been granted the number of Incentive Stock Options promised in the Employment Agreement, but further down contained a dramatically different exercisability clause: "**This Option shall be exercisable in whole or in part six months after the Date of Grant."**

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18. This new six-month exercisability schedule was directly contrary to the four-year exercisability schedule specified in the Employment Agreement, and had the effect of making all of the options exercisable during one calendar year, thereby resulting in Uber disqualifying all of the options above $100,000 from ISO treatment under the Disqualification Threshold.

19. Uber was well aware that due to its imposition of an accelerated, six-month exercisability schedule, Uber would re-classify most of the promised ISOs as NSOs.

20. Uber's unilateral imposition of an accelerated (six-month) exercisability schedule breached the Employment Agreement which set forth a four-year schedule.

21. Uber further breached the Employment Agreement by thereafter refusing to permit the employees to exercise their options (in excess of $100,000) unless the employee paid the tax in conformance with NSO rules. As a result of the added tax payment, many employees were financially unable or found it financially impracticable to exercise their options.

22. On information and belief, Uber's above-described scheme to promise recruits ISOs to the maximum extent permitted by law and based on a maximum ISO-qualifying exercisability schedule in their Employment Agreement, knowing that Uber intended post-hire to impose an ISO-disqualifying exercisability schedule, began in or before 2013. On information and belief, this scheme continued until the company began offering restricted stock units, rather than stock options, to recruits, which on information and belief occurred in or about December 2014 or early 2015. Uber knew at the time of recruiting candidates and at the time of entering into the Employment Agreements that it never intended to honor the agreement to compensate employees with ISOs to the maximum extent permitted by the tax code or pursuant to the promised four-year exercisability schedule. In or about May 2015, the manager of Uber's stock plan administration department told Plaintiff that Uber had been engaging in this practice of promising a four-year exercisability schedule in the Employment Agreements, and then systematically changing the exercisability schedule to six months in the Notices, since the very beginning.

Uber's Financial Incentive To Deprive Employees of Their ISOs

23. Uber had substantial incentive to deprive employees of their ISOs, as follows:

a. Because NSOs are treated as ordinary income, on information and belief, Uber receives a large payroll tax deduction, which it would otherwise not be entitled to had Uber not improperly imposed an ISO-disqualifying exercisability schedule different from the qualifying schedule contained in the Employment Agreements. On information and belief, this reclassification of the options as NSOs has permitted Uber to take millions of dollars of tax deductions which it otherwise would not be entitled to take.

b. Because of the significantly higher cost to exercise NSOs, many employees have been, and continue to be, financially unable or find it financially impracticable to exercise their stock options, or significant portions of them, due to the added burden of having to pay tax (often four or more times the amount of the exercise price) upon exercise. As a result, many employees are effectively forced to forfeit this portion of their compensation.

c. When an employee leaves Uber, he or she is required to exercise any vested options within 30 days, or they are forfeited. As a result, separating employees are often financially unable to come up with the additional monies to cover the taxes to exercise the vested options Uber deems to be NSOs, resulting in their forfeiture. If the departure is due to termination for cause, Uber immediately cancels all unexercised vested options. In both cases, unexercised vested options, while earned during the period of employment, are not realized by employees. By converting equity compensation from the promised ISOs to NSOs, Uber has ensured that many employees will not receive their earned compensation when they leave the company and thereby Uber avoids having to pay millions of dollars in compensation.

Uber's Improper "Trading Windows"

24. As set forth above, Uber represented to recruits in their Employment Agreements that 25% of the promised stock options would be exercisable at the end of the first year of employment and the balance exercisable *pro rata* monthly over the next three years of employment. Contrary to these promises and in further breach of the Employment Agreements (and even contrary to the improper six-month exercisability schedule set forth in the Notices), Uber limited the periods that employees could actually exercise their stock options based upon

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internally-imposed "Trading Windows." For example, employees were only allowed to exercise their stock options for less than a third of calendar 2015 and roughly half of calendar 2016.

25. As a result, Uber employees have been denied the contractual right to exercise the options on the specified times under the Employment Agreements and even under the Notices. These limited "Trading Windows" make it more difficult for employees to exercise and secure their promised equity compensation, and further ensure, as described above, that many employees will not receive their stock options when they leave the company.

FACTS SPECIFIC TO PLAINTIFF

26. Plaintiff is a graduate of Carnegie-Mellon University, and subsequently attended and graduated from Stanford Law School. Plaintiff is an experienced software engineer, who previously worked for Yelp.

27. In or about mid-2014, Plaintiff was recruited for employment by Uber and another technology company and received offers from both. Relying upon the above-described representations by Uber that it would be granting him 20,000 ISOs up to the maximum extent allowed by the tax code and the four-year vesting/exercisability schedule, Plaintiff made the decision to join Uber.

28. On or about September 4, 2014, Plaintiff entered into an Employment Agreement with Uber (Exhibit A hereto). The Employment Agreement promised that Plaintiff would receive 20,000 stock options, that they would be ISOs "to the maximum extent allowed by the tax code" and that an ISO-qualifying exercise schedule would apply, to wit: "[t]he Option shall vest and become exercisable at the rate of 25% of the total number of option shares after the first 12 months of continuous service and the remaining option shares shall become vested and exercisable in equal monthly installments over the next three years of continuous service."

29. Based on the foregoing representations, Plaintiff relocated his residence from the State of Washington to the Bay Area to work for Uber.

30. More than two months after starting work, Uber gave Plaintiff the Notice of Stock Option Grant (Exhibit B hereto) granting him the promised number of options (20,000). The Notice on its face states that it is an "Incentive Stock Option." According to the Notice, the

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fair market value of Plaintiff's options when they were granted was $16.58/share, for a total fair market value (FMV) of 20,000 x $16.58 = $331,600 (the "Total Exercise Price"). According to the Employment Agreement, only 25% of these options – a FMV of $82,900 - should have been exercisable in any given calendar year, well below the annual Disqualification Threshold. This would have assured that all of Plaintiff's options would be treated as ISOs. However, as described above, the Notice contained a different and accelerated exercisability schedule, allowing the grantee to exercise all the options after six months (*i.e.*, during one calendar year), regardless of the vesting schedule. Uber failed to state in the Notice that this was a material change from the Employment Agreement and that Uber's position was that most of the options would be disqualified from ISO treatment.

31. In or about April 2015, months after the option grant was issued and after Plaintiff had relocated for work, Uber adopted an online stock administration system where it was first revealed to Plaintiff that Uber now actually considered most of the option grant to be NSOs. Upon inquiry, Plaintiff was told by Uber's stock department that the accelerated exercisability schedule in his Notice had triggered the Disqualification Threshold for all options. As a result, out of the 20,000 ISOs granted to Plaintiff, Uber deemed approximately 14,000 (70%) of those options to be NSOs.

32. When Plaintiff first attempted in or about January 2016 to exercise the options that Uber claimed were now NSOs, Uber informed Plaintiff that he must immediately pay taxes on the exercise for Uber to recognize the exercise. As a result of this tax payment requirement, it was financially impracticable for plaintiff to exercise all of his vested "NSO" options.

33. Separate and apart from the foregoing, Uber refused to recognize several option exercises Plaintiff had made, asserting that the "Trading Window" was closed, even though Plaintiff was entitled to make this exercise under the schedule set forth in his Employment Agreement.

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CLASS ALLEGATIONS

34. Plaintiff brings this action as a class action under Rules 23(a), 23(b)(1), 23(b)(2) and/or 23(b)(3) of the Federal Rules of Civil Procedure on behalf of the following Classes and SubClass of similarly situated persons:

UBER INCENTIVE STOCK OPTION CLASS: All current and former employees of Uber during the four years prior to the filing of this Complaint, who were promised ISOs for Uber stock in their Employment Agreements but some portion of whose options were deemed NSOs due to Uber imposing a shorter exercisability schedule in the Notice of Stock Option Grant than contained in the Employment Agreements.

UBER TRADING WINDOW CLASS: All current and former employees of Uber during the four years prior to the filing of this Complaint, who were prevented by Uber through the imposition of Trading Windows from exercising stock options for Uber stock in accordance with the timing of the exercisability schedule set forth in the Employment Agreements.

RELOCATION SUBCLASS: All current and former members of the Uber Incentive Stock Option Class and/or Uber Trading Window Class who, during the four years prior to the filing of this Complaint, relocated their residence to work for Uber. (References to "the Class" or "Class Members" refers to the forgoing and is inclusive of the "Subclass" and "Subclass Members.")

35. Subject to additional information obtained through further investigation and discovery, the foregoing definition of the Classes or Subclass may be expanded or narrowed by amendment or amended complaint. Defendant, its subsidiaries, its officers, directors, managing agents and members of those persons' immediate families, the Court, Court personnel, and legal representatives, heirs, successors or assigns of any excluded person or entity are excluded from the Class.

36. **Numerosity.** The Class for whose benefit this action is brought is so numerous that joinder of all Class Members is impracticable. While Plaintiff does not presently know the exact number of Class Members, Plaintiff is informed and believes that there are at least

hundreds of Class Members, and that those Class Members can be readily determined and identified through Defendant's files and, if necessary, appropriate discovery.

37. **Typicality.** Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff, like all Class Members, was a victim of Uber's breaches and misconduct alleged herein. Furthermore, the factual bases of Defendant's breaches and misconduct are common to all Class Members and represent a common thread of unfair and/or unlawful conduct resulting in injury to all members of the Class.

38. **Commonality.** Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members. Issues of law and fact common to the Class include:

(a) Whether Defendant entered into written Employment Agreements which promised Class Members that they would be granted ISOs to the maximum extent permitted by tax law and under a four-year exercisability schedule specified in the Employment Agreements;

(b) Whether Defendant breached the Employment Agreements by imposing an accelerated, shorter exercisability schedule than specified in the Employment Agreements, thereby causing many of the ISOs to be deemed NSOs by Uber;

(c) Whether Defendant breached the Employment Agreements by imposing Trading Windows which prevented Class Members from exercising options at the times permitted under the Employment Agreements;

(d) Whether Defendant's assertion that its interpretation of Internal Revenue Code Section 422, disqualifying all options in excess of $100,000 from ISO treatment including unvested options exercisable within one calendar year, is correct;

(e) Whether, at or before the time Defendant entered into the Employment Agreements, it had adopted or decided to impose an accelerated exercisability schedule for stock options that was shorter than the four-year schedule set forth in the Employment Agreements;

(f) Whether Defendant knowingly misrepresented the terms of the stock options in the Employment Agreements;

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(g) Whether Defendant made the promises concerning stock options set forth in the Employment Agreements without the intent to perform them;

(h) Whether Defendant violated California Labor Code § 970 by misrepresenting the terms of stock options to be granted in order to induce the Relocation Subclass members to relocate to work for Uber;

(i) Whether the Relocation Subclass Members relocated their residences to accept employment with Defendant;

(j) Whether Class Members have been damaged by Defendant's actions or conduct;

(k) Whether Class Members are entitled to specific performance of the Employment Agreements such that all options up to $400,000 receive ISO treatment;

(l) Whether declaratory and injunctive relief are appropriate to curtail Defendant's conduct as alleged herein;

(m) Whether Plaintiff and the other Class Members are entitled to restitution and disgorgement of all tax savings of Defendant as a result of Defendant's fraudulent, unfair and unlawful business practices to prevent Defendant from being unjustly enriched; and

(n) Whether Defendant acted with fraud, malice and/or oppression, thereby justifying the imposition of punitive damages.

39. **Adequacy.** Plaintiff will fairly and adequately represent the interests of the Class and has no interests adverse to or in conflict with other Class Members. Plaintiff's retained counsel will vigorously prosecute this case, has previously been designated class counsel in cases in the State and Federal courts of California, and is highly-experienced in employment law, class and complex, multi-party litigation.

40. **Superiority.** A class action is superior to other available methods for the fair and efficient adjudication of this controversy since, among other things, joinder of all Class Members is impracticable and a class action will reduce the risk of inconsistent adjudications or repeated litigation on the same conduct. Further, the expense and burden of individual lawsuits would make it virtually impossible for Class Members, Defendant, or the Court to cost-

effectively redress separately the unlawful conduct alleged. Thus, absent a class action, Defendant would unjustly retain the benefits of its wrongdoings. Plaintiff knows of no difficulties to be encountered in the management of this action that would preclude its maintenance as a class action, either with or without sub-classes.

41. Adequate notice can be given to Class Members directly using information maintained in Defendant's records, or through notice by publication.

42. Accordingly, class certification is appropriate under Rule 23.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(BREACH OF CONTRACT)

43. Plaintiff incorporates herein by reference paragraphs 1-42 as if fully set forth herein.

44. The Employment Agreement (in a form substantially identical or similar to Exhibit A) between Uber and each Class Member stated that Uber shall grant the employee a specified number of stock options, that the options will be ISOs to the maximum extent allowed by the tax code and shall vest and become exercisable over four-years, 25% at the end of the first year and *pro rata* monthly thereafter for the remaining three years, and that the specified number of options was subject to Board approval.

45. Defendant's Board thereafter approved the number of options specified in the Employment Agreement for Plaintiff and each other Class Member.

46. Plaintiff and the other Class Members have performed all obligations and conditions required by them in the Employment Agreements and/or are excused from doing so.

47. Defendant breached the Employment Agreements by thereafter imposing a shorter (six-month) and ISO-disqualifying exercisability schedule on Plaintiff and the other Class Members, thereby causing all of the stock options (except for the first $100,000) to be treated by Defendant as NSOs rather than ISOs.

48. Defendant further breached the Employment Agreements by prohibiting Plaintiff and the other Class Members from exercising the promised stock options on the schedule set

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forth in the Employment Agreements (*i.e.*, 25% at the end of the first year and the remainder *pro rata* monthly over the next three years), improperly imposing internal "Trading Windows" that limited the exercisability periods.

49. Based on Defendant's conduct described in this Complaint, Defendant also waived its right and/or is estopped to deny such obligations and breaches.

50. As a result of the Defendant's breaches, Plaintiff and the other Class Members have suffered damages as a result of the re-classification of their stock options as NSOs and Defendant's refusal to permit Plaintiff and the Other Class Members to exercise their options on and after the dates set forth in their Employment Agreements.

51. As a further result of Defendant's breaches, Plaintiff and the other Class Members are entitled to injunctive relief to remedy such unlawful continuing conduct, and to an order requiring that Defendant specifically perform the Employment Agreements by re-instating the agreed four-year exercisability schedule.

SECOND CLAIM FOR RELIEF

(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING)

52. Plaintiff incorporates by reference the allegations in paragraphs 1 through 51 as if fully set forth herein.

53. The Employment Agreements contain an implied promise of good faith and fair dealing, whereby neither party will do anything to unfairly interfere with the right of the other party to receive the benefits of the contract.

54. Plaintiff and the other Class Members have performed all obligations and conditions required by them in the Employment Agreements and/or are excused from doing so.

55. Defendant breached the implied covenant of good faith and fair dealing by unfairly interfering with Plaintiff and the other Class Members' right to receive the benefits of the Employment Agreements. Specifically, by unilaterally imposing after the fact an accelerated ISO-disqualifying exercisability schedule, Defendant has interfered with Plaintiff and the other Class Members' right to exercise their ISOs up to the maximum permitted by the tax code and pursuant to the ISO-maximizing four-year exercisability schedule specified in the Employment

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Agreements. Defendant has also unfairly imposed restrictive Trading Windows which improperly interfere with Plaintiff and the other Class Members' right to exercise their stock options on and after the dates specified in the Employment Agreements.

56. Based on Defendant's conduct described in this Complaint, Defendant also waived its right and/or is estopped to deny such obligations and breaches.

57. As a result of the Defendant's breaches, Plaintiff and the other Class Members have suffered damages as a result of the re-classification of their stock options as NSOs and Defendant's refusal to permit Plaintiff and the Other Class Members to exercise their options on and after the dates set forth in their Employment Agreements.

58. As a further result of Defendant's breaches, Plaintiff and the other Class Members are entitled to injunctive relief to remedy such unlawful continuing conduct, and to an order requiring that Defendant specifically perform the Employment Agreements by re-instating the agreed four-year exercisability schedule.

THIRD CLAIM FOR RELIEF

(FALSE PROMISE)

59. Plaintiff incorporates by reference the allegations in paragraphs 1 through 42 as if fully set forth herein.

60. Defendant promised to Plaintiff and the other Class Members in their Employment Agreements that: a) the stock options would be ISOs to the maximum extent permitted by the tax code and would be exercisable pursuant to an exercisability schedule (25% at the end of the first year of continuous service and 1/48 monthly thereafter for the following three years), which guaranteed that the options will be treated as ISOs up to a maximum $400,000 pursuant to Internal Revenue Code §422; and b) that the options could be exercised on and after those dates.

61. These representations were material to Plaintiff and the other Class Members.

62. Unbeknownst to Plaintiff and the other Class Members, Defendant never intended to perform these promises. Rather, Defendant at all times intended to impose an accelerated, six-month exercisability schedule that Uber asserts had the effect of making all

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stock options in excess of $100,000 NSOs instead of ISOs. Also unbeknownst to Plaintiff and the other Class Members, Defendant at all times intended to impose restrictive "Trading Windows," which preclude the exercise of stock options on many of the dates permitted under the exercisability schedule specified in the Employment Agreements.

63. Defendant intended that Plaintiff and the other Class Members rely on these promises in deciding to accept Defendant's employment offers.

64. Plaintiff and the other Class Members reasonably relied upon Defendant's promises by accepting employment with Defendant.

65. Defendant failed and refused to honor the foregoing promises, and in fact imposed an ISO-disqualifying exercisability schedule on Plaintiff and the other Class Members after they joined the company, whereby all but $100,000 of the stock options were deemed by Uber to be NSOs rather than ISOs. Defendant further imposed Trading Windows which prevented Plaintiff and the other Class Members from exercising their options on many of the dates permitted in the exercisability schedules set forth in the Employment Agreements.

66. As a direct and proximate result of Defendant's wrongful conduct, Plaintiff and the other Class Members suffered damages.

67. As a further direct and proximate result of Defendant's wrongful conduct, Plaintiff and the other Class Members are entitled to injunctive relief to remedy such unlawful continuing conduct, and also to restitution and disgorgement of all tax savings by Defendant as a result of Defendant's fraudulent, unfair and unlawful business practices to prevent Defendant from being unjustly enriched.

68. California Civil Code § 3294(a) provides, in pertinent part:

> In an action for the breach of an obligation not arising from Agreement, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

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69. Defendant acted with fraud, malice and/or oppression in carrying out the above-described scheme. Defendant fraudulently sought to avoid paying Plaintiff and the other Class Members millions of dollars in promised compensation and, upon information and belief, also took millions of dollars in otherwise unwarranted tax deductions by re-characterizing the ISOs as NSOs. Plaintiff and the other Class Members are therefore entitled to punitive damages against Defendant.

FOURTH CLAIM FOR RELIEF

(INTENTIONAL MISREPRESENTATION)

70. Plaintiff incorporates by reference the allegations in paragraphs 1-42 as if fully set forth herein.

71. Defendant represented to Plaintiff and the other Class Members in their Employment Agreements that the stock options were ISOs to the maximum extent permitted by the tax code and that they were exercisable 25% at the end of the first year of continuous service and 1/48 monthly thereafter for the following three years. These representations guaranteed to Plaintiff and the other Class Member that the options would be treated as ISOs up to a maximum $400,000 and that the stock options could be exercised on and after the dates set forth in that schedule. As such, they were important and material to Plaintiff and the Class Members.

72. These representations were false. In fact, the options they issued were not ISOs to the maximum extent permitted by the tax code given they were not exercisable on the schedule represented by Defendant.

73. Defendant knew that the representations were false when it made them and/or Defendant made such representations recklessly and without regard for their truth. Upon information and belief, in or before 2013 Defendant had decided to, and thereafter systematically used, an accelerated exercisability schedule in the Notices which according to Uber rendered the options (beyond $100,000) NSOs.

74. Defendant intended that Plaintiff and the other Class Members rely upon these representations by accepting Defendant's employment offers.

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75. Plaintiff and the Class Members reasonably relied on Defendant's representations by accepting Defendant's employment offers.

76. As a direct and proximate result of Defendant's wrongful conduct, Plaintiff and the other Class Members suffered damages.

77. As a further direct and proximate result of Defendant's wrongful conduct, Plaintiff and the other Class Members are entitled to injunctive relief to remedy such unlawful continuing conduct, and also to restitution and disgorgement of all tax savings by Defendant as a result of Defendant's fraudulent, unfair and unlawful business practices to prevent Defendant from being unjustly enriched.

78. California Civil Code § 3294(a) provides additionally, in pertinent part, as follows:

> In an action for the breach of an obligation not arising from Agreement, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

79. Defendant acted with fraud, malice and/or oppression in carrying out the above-described scheme. Defendant fraudulently sought to avoid paying Plaintiff and the other Class Members millions of dollars in promised compensation and, upon information and belief, also took millions of dollars in otherwise unwarranted tax deductions by re-characterizing the ISOs as NSOs. Plaintiff and the Class Members are therefore entitled to punitive damages against Defendant.

FIFTH CLAIM FOR RELIEF

(VIOLATION OF CAL. LABOR CODE § 970)

80. Plaintiff incorporates by reference the allegations in paragraphs 1-42, 60-65 and 71-75 as if fully set forth herein.

81. California Labor Code § 970 provides, in pertinent part: "No person, or agent or officer thereof, directly or indirectly, shall influence, persuade, or engage any person to change from one place to another in this State or from any place outside to any place within the State, or

from any place within the State to any place outside, for the purpose of working in any branch of labor, through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning . . . (b) The length of time such work will last, or the compensation therefor."

82. Defendant used knowingly false representations contained in the Employment Agreements to influence, persuade or engage Plaintiff and other Relocation Subclass Members to accept employment with Defendant and thereby change from one place to another in the State of California or from any place outside to any place within the State of California or from any place inside the State of California to any place outside.

83. Specifically, Defendant represented to Plaintiff and the Relocation Subclass Members in their Employment Agreements that the stock options would be ISOs up to the maximum extent allowed by the tax code, would be exercisable pursuant to a four-year schedule which guaranteed that the options will be treated as ISOs up to a maximum $400,000 and that the options would be exercisable on and after the dates specified in such schedule. Defendant made such representations to Plaintiff and the Relocation Subclass Members without the intent to perform them.

84. Plaintiff and the Relocation Subclass Members justifiably relied upon such misrepresentations by relocating their residences to accept employment with Uber.

85. As a direct and proximate result of Defendant's wrongful conduct, Plaintiff and the other Class Members suffered damages.

86. California Labor Code §972 provides that: "In addition to such criminal penalty, any person, or agent or officer thereof who violates any provision of section 970 is liable to the party aggrieved, in a civil action, for double damages resulting from such misrepresentations." Plaintiff and other Relocation Subclass Members are therefore entitled to double damages resulting from such misrepresentations.

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SIXTH CLAIM FOR RELIEF

(VIOLATION OF UCL)

Cal. Bus. & Prof. Code §§ 17200 *et seq.*

87. Plaintiff incorporates by reference the allegations in paragraphs 1 through 86 as if fully set forth herein.

88. By its fraudulent representations and breaches described in this Complaint, Defendant has committed unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code § 17200 *et seq.* (the "UCL").

89. These misrepresentations and breaches constitute unfair, unlawful and fraudulent conduct and unfair competition in violation of the UCL.

90. Defendant's conduct as described herein has been anti-competitive and injurious to other companies which complied with the laws and policies violated by Defendant as Defendant's conduct provided an unfair and illegal advantage in the marketplace as a result of, *inter alia*, inducing individuals to accept employment with Defendant rather than other technology companies.

91. The foregoing conduct by Defendant has injured Plaintiff and the other Class Members by, *inter alia*, wrongfully denying them the financial advantages of ISOs and precluding them from exercising their stock options at the promised times. As such, Plaintiff and the other Class Members are entitled to restitution and injunctive relief. Plaintiff and the other Class Members are also entitled to restitution and disgorgement of all tax savings by Defendant as a result of Defendant's fraudulent, unfair and unlawful business practices to prevent Defendant from being unjustly enriched.

92. Wherefore, Plaintiff prays for relief and judgment as set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the other putative Class Members, prays for judgment in his favor and relief against Defendant as follows:

(a) An order certifying the proposed Classes and SubClass, designating Plaintiff as the named representative of the Classes and SubClass, and designating Plaintiff's counsel as Class Counsel;

(b) For compensatory damages in an amount to be determined at trial, but at least $5 million;

(c) For double damages to Plaintiff and the other Relocation Subclass Members pursuant to Labor Code §972;

(d) For restitution of all amounts Class Members have been unlawfully denied as a result of Defendant's unfair and unlawful business practices;

(e) For restitution and disgorgement of all tax savings by Defendant as a result of Defendant's unfair and unlawful business practices to prevent Defendant from being unjustly enriched;

(f) For specific performance;

(g) For injunctive relief restraining further acts of wrongdoing by Defendant;

(h) For punitive and exemplary damages;

(i) For pre-judgment interest, at the legal rate;

(j) For attorneys' fees and costs; and

(k) For all such other and further relief as the Court may deem just, proper and equitable.

Dated: December 19, 2016

PHLLIPS, ERLEWINE, GIVEN & CARLIN LLP

By: /s/ R. Scott Erlewine
R. Scott Erlewine
Nicholas A. Carlin
Brian S. Conlon
Attorneys for Plaintiff
Lenza H. McElrath III

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DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury of all issues so triable.

Dated: December 19, 2016

PHLLIPS, ERLEWINE, GIVEN & CARLIN LLP

By: /s/ R. Scott Erlewine
R. Scott Erlewine
Nicholas A. Carlin
Brian S. Conlon
Attorneys for Plaintiff
Lenza H. McElrath III

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EXHIBIT A

This offer letter supersedes and replaces all previous agreements or offer letters.

Uber Technologies, Inc.
1455 Market Street, 4th Floor
San Francisco, CA 94103

September 3, 2014

Lenza McElrath

Re: **EMPLOYMENT AGREEMENT**

Dear Lenza

On behalf of Uber Technologies, Inc., a Delaware corporation (the "Company"), I am pleased to offer you the position of Senior Software Engineer of the Company. Your employment by the Company shall be governed by the following terms and conditions (this "Agreement"):

1. **Duties and Scope of Employment.**

a. **Position.** For the term of your employment under this Agreement (your "Employment"), the Company agrees to employ you in the position of Senior Software Engineer or in such other position as the Company subsequently may assign to you. You will report to the Company's Engineering Manager, Jeremy Suurkivi, or to such other person as the Company subsequently may determine. You will be working out of the Company's office in San Francisco, CA. You will perform the duties and have the responsibilities and authority customarily performed and held by an employee in your position or as otherwise may be assigned or delegated to you by your supervisor.

b. **Obligations to the Company.** During your Employment, you shall devote your full business efforts and time to the Company. During your Employment, without express written permission from the Chief Executive Officer or one of his direct reports, you shall not render services in any capacity to any other person or entity and shall not act as a sole proprietor or partner of any other person or entity or own more than five percent of the stock of any other corporation. Notwithstanding the foregoing, you may serve on corporate, civic or charitable boards or committees, deliver lectures, fulfill speaking engagements, teach at educational institutions, or manage personal investments without such advance written consent, provided that such activities do not individually or in the aggregate interfere with the performance of your duties under this Agreement. You shall comply with the Company's policies and rules, as they may be in effect from time to time during your Employment.

c. **No Conflicting Obligations.** You represent and warrant to the Company that you are under no obligations or commitments, whether contractual or otherwise, that are inconsistent with your obligations under this Agreement. In connection with your Employment, you shall not use or disclose any trade secrets or other proprietary information or intellectual property in which you or any other person has any right, title or interest and your Employment will not infringe or violate the rights of any other person. You represent and warrant to the

Company that you have returned all property and confidential information belonging to any prior employer.

d. **Commencement Date.** You shall commence full-time Employment as soon as reasonably practicable and in no event later than September 29, 2014.

2. **Cash and Incentive Compensation.**

a. **Salary.** The Company shall pay you as compensation for your services an initial base salary at a gross annual rate of $160,000. Such salary shall be payable in accordance with the Company's standard payroll procedures. The annual compensation specified in this subsection (a), together with any modifications in such compensation that the Company may make from time to time, is referred to in this Agreement as "Base Salary."

b. **Relocation Payment.** In order to assist you to move yourself and your household from current city to San Francisco, CA the Company will reimburse you up to an amount that will not exceed $10,000 to cover your actual relocation expenses incurred for the following items (if applicable): closing costs on the sale of your home in current city, transportation from current city to San Francisco, CA, storage of household goods and temporary housing in San Francisco, CA (the "Relocation Payment"). The Relocation Payment shall be made to you net of all applicable withholding taxes and other applicable deductions in accordance with the Company's standard payroll practices. In the event you voluntarily terminate your employment with Uber within 12 months of receipt of the relocation payment, you agree to repay the entire relocation payment to Uber and authorize Uber to deduct this amount from any outstanding wages due to you in your final paycheck.

c. **Stock Options.** Subject to the approval of the Company's Board of Directors (the "Board"), the Company shall grant you a stock option covering 20,000 shares of the Company's Common Stock (the "Option"). The Option shall be granted as soon as reasonably practicable after the date of this Agreement or, if later, the date you commence full-time Employment. The exercise price per share will be equal to the fair market value per share on the date the Option is granted, as determined by the Company's Board of Directors in good faith compliance with applicable guidance in order to avoid having the Option be treated as deferred compensation under Section 409A of the Internal Revenue Code of 1986, as amended. There is no guarantee that the Internal Revenue Service will agree with this value. You should consult with your own tax advisor concerning the tax risks associated with accepting an option to purchase the Company's Common Stock. The term of the Option shall be 10 years, subject to earlier expiration in the event of the termination of your services to the Company. The Option shall vest and become exercisable at the rate of 25% of the total number of option shares after the first 12 months of continuous service and the remaining option shares shall become vested and exercisable in equal monthly installments over the next three years of continuous service. The Option will be an incentive stock option to the maximum extent allowed by the tax code and shall be subject to the other terms and conditions set forth in the Company's 2013 Stock Plan (the "Stock Plan") and in the Company's standard form of Stock Option Agreement.

3. **Vacation/PTO and Employee Benefits.** During your Employment, you shall be eligible for paid vacation / paid time off, in accordance with the Company's vacation / paid time off policy, as it may be amended from time to time. During your Employment, you shall be eligible to participate in the employee benefit plans maintained by the Company and generally available to similarly situated employees of the Company, subject in each case to the generally applicable terms and conditions of the plan in question and to the determinations of any person or committee administering such plan.

4. **Business Expenses.** The Company will reimburse you for your necessary and reasonable business expenses incurred in connection with your duties hereunder upon presentation of an itemized account and appropriate supporting documentation, all in accordance with the Company's generally applicable policies.

5. **Termination.**

a. **Employment at Will.** Your Employment shall be "at will," meaning that either you or the Company shall be entitled to terminate your Employment at any time and for any reason, with or without Cause. Any contrary representations that may have been made to you shall be superseded by this Agreement. This Agreement shall constitute the full and complete agreement between you and the Company on the "at-will" nature of your Employment, which may only be changed in an express written agreement signed by you and a duly authorized officer of the Company.

b. **Rights Upon Termination.** Except as expressly provided herein, upon the termination of your Employment, you shall only be entitled to the compensation and benefits earned and the reimbursements described in this Agreement for the period preceding the effective date of the termination.

6. **Pre-Employment Conditions.**

a. **Confidentiality Agreement.** Your acceptance of this offer and commencement of employment with the Company is contingent upon the execution, and delivery to an officer of the Company, of the Company's Confidential Information and Invention Assignment Agreement, a copy of which is enclosed for your review and execution (the "Confidentiality Agreement"), prior to or on your Start Date.

b. **Right to Work.** For purposes of federal immigration law, you will be required to provide to the Company documentary evidence of your identity and eligibility for employment in the United States. Such documentation must be provided to us within three (3) business days of your Start Date, or our employment relationship with you may be terminated.

7. **Successors.**

a. **Company's Successors.** This Agreement shall be binding upon any successor (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets. For all purposes under this Agreement, the term "Company" shall include any successor to the Company's business or assets that becomes bound by this Agreement.

b. **Your Successors.** This Agreement and all of your rights hereunder shall inure to the benefit of, and be enforceable by, your personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

8. **Miscellaneous Provisions.**

a. **Notice.** Notices and all other communications contemplated by this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid. In your case, mailed notices shall be addressed to you at the home address that you most recently communicated to the Company in writing. In the case of the Company, mailed notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Secretary.

b. **Modifications and Waivers.** No provision of this Agreement shall be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by you and by an authorized officer of the Company (other than you). No

waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

c. **Whole Agreement.** No other agreements, representations or understandings (whether oral or written and whether express or implied) which are not expressly set forth in this Agreement have been made or entered into by either party with respect to the subject matter hereof. This Agreement and the Confidentiality Agreement contain the entire understanding of the parties with respect to the subject matter hereof.

d. **Withholding Taxes.** All payments made under this Agreement shall be subject to reduction to reflect taxes or other charges required to be withheld by law.

e. **Choice of Law and Severability.** This Agreement shall be interpreted in accordance with the laws of the State of California without giving effect to provisions governing the choice of law. If any provision of this Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to applicable law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is rendered illegal by any present or future statute, law, ordinance or regulation (collectively, the "Law") then that provision shall be curtailed or limited only to the minimum extent necessary to bring the provision into compliance with the Law. All the other terms and provisions of this Agreement shall continue in full force and effect without impairment or limitation.

f. **Arbitration.** As set forth in more detail in the Alternate Dispute Resolution Agreement (attached hereto as Attachment B), You and the company agree to submit to mandatory binding arbitration any and all claims arising out of or related to your employment with the Company and your termination thereof, including but not limited to, claims for unpaid wages, wrongful terminations, torts, stock or stock options or other ownership interest in the Company and/or discrimination (including harassment) based upon any federal, state or local ordinance, statute, regulation or constitutional provision, except that each party may, at its, his or her option, seek injunctive relief in court related to the improper use, disclosure or misappropriation of a party's proprietary, confidential or trade secret information. All arbitration hearings shall be conducted in San Francisco County, California. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRIAL BY JURY IN REGARD TO SUCH CLAIMS. This Agreement does not restrict your right to file administrative claims you may bring before any government agency where, as a matter of law, the parties may not restrict the employee's ability to file such claims (including, but not limited to, the National Labor Relations Board, the Equal Employment Opportunity Commission and the Department of Labor).

g. **No Assignment.** This Agreement and all of your rights and obligations hereunder are personal to you and may not be transferred or assigned by you at any time. The Company may assign its rights under this Agreement to any entity that assumes the Company's obligations hereunder in connection with any sale or transfer of all or a substantial portion of the Company's assets to such entity.

h. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

This offer letter supersedes and replaces all previous agreements or offer letters.

[Signature Page Follows]

This offer letter supersedes and replaces all previous agreements or offer letters.

We are all delighted to be able to extend you this offer and look forward to working with you. Please understand that this offer is contingent upon successful completion of your background check investigation. To indicate your acceptance of the Company's offer, please sign and date this letter in the space provided below and return it to me, along with a signed and dated original copy of the Confidentiality Agreement. The Company requests that you begin work in this new position on or before September 29, 2014. This offer must be accepted on or before September 4, 2014. Please indicate the date (either on or before the aforementioned date) on which you expect to begin work in the space provided below (the "Start Date").

Very truly yours,

Uber Technologies, Inc.

By: Jeremy Suurkivi

Name: Jeremy Suurkivi

Title: Engineering Manager

ACCEPTED AND AGREED:

Lenza McElrath

Lenza McElrath

Sep 3, 2014

Date

Anticipated Start Date: September 29, 2014

Attachment A: Confidential Information and Invention Assignment Agreement

Attachment B: Alternate Dispute Resolution Agreement

This offer letter supersedes and replaces all previous agreements or offer letters.

ATTACHMENT A

CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT

(See Attached)

This offer letter supersedes and replaces all previous agreements or offer letters.

ATTACHMENT B

ALTERNATE DISPUTE RESOLUTION AGREEMENT

(See Attached)

EXHIBIT B

UBER TECHNOLOGIES, INC.

2013 EQUITY INCENTIVE PLAN

NOTICE OF STOCK OPTION GRANT

Lenza McElrath

You have been granted an option to purchase shares of Class A Common Stock of Uber Technologies, Inc., a Delaware corporation (the "Company"), under the Company's 2013 Equity Incentive Plan (the "Plan"), as follows (unless otherwise defined in this Notice of Stock Option Grant, the terms used in this Notice of Stock Option Grant shall have the meanings defined in the Plan):

Date of Grant:	10/14/2014
Exercise Price Per Share:	$16.58
Total Number of Shares:	20,000
Total Exercise Price:	$331,600.00
Type of Option:	Incentive Stock Option
Expiration Date:	10/13/2024
Vesting Commencement Date:	9/29/2014
Vesting/Exercise Schedule:	This Option shall be exercisable in whole or in part, six months after the Date of Grant, provided, however, that the Company or its assignee shall have the option to repurchase any Unvested Shares (as defined below) on the terms and conditions set forth below in Section 6 of the Exercise Agreement attached hereto as Exhibit A (the "Exercise Agreement"). "Unvested Shares" are Shares in which Optionee is not vested at the time of his or her termination of employment or consulting relationship with the Company in accordance with the following Vesting Schedule and which are then still subject to the Company's Repurchase Option. "Vested Shares" are Shares which are no longer subject to the Company's Repurchase Option (as defined in the Exercise Agreement). So long as your Continuous Service Status does not terminate, the Shares underlying this Option shall vest in accordance with the following schedule: 12/48ths of the Total Number of Shares shall vest on the one year anniversary of the Vesting Commencement Date and 1/48th of the Total Number of Shares shall vest on each monthly

	anniversary of the Vesting Commencement Date thereafter.
Termination Period:	You may exercise this Option for thirty (30) days after termination of your Continuous Service Status except as set out in Section 5 of the Stock Option Agreement (but in no event later than the Expiration Date). You are responsible for keeping track of these exercise periods following the termination of your Continuous Service Status for any reason. The Company will not provide further notice of such periods.
Transferability:	You may not transfer this Option.

By your signature and the signature of the Company's representative below, you and the Company agree that this Option is granted under and governed by the terms and conditions of the Plan and the Stock Option Agreement, both of which are attached to and made a part of this document.

In addition, you agree and acknowledge that your rights to any Shares underlying this Option will be earned only as you provide services to the Company over time, that the grant of this Option is not as consideration for services you rendered to the Company prior to your date of hire, and that nothing in this Notice or the attached documents confers upon you any right to continue your employment or consulting relationship with the Company for any period of time, nor does it interfere in any way with your right or the Company's right to terminate that relationship at any time, for any reason, with or without cause. You agree and acknowledge that the Vesting/Exercise Schedule may change prospectively in the event that Optionee's service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of equity awards. Also, to the extent applicable, the Exercise Price Per Share has been set in good faith compliance with the applicable guidance issued by the Internal Revenue Service (the "IRS") under Section 409A of the Code. However, there is no guarantee that the IRS will agree with the valuation, and by signing below, you agree and acknowledge that the Company shall not be held liable for any applicable costs, taxes, or penalties associated with this Option if, in fact, the IRS were to determine that this Option constitutes deferred compensation under Section 409A of the Code. You should consult with your own tax advisor concerning the tax consequences of such a determination by the IRS.

[Signature Page Follows]

The parties have executed this Notice of Stock Option Grant as of the date first set forth above.

THE COMPANY:

UBER TECHNOLOGIES, INC.

By: _____
(signature)

Name: Travis Kalanick
Title: CEO

OPTIONEE:

Lenza McElrath

Lenza H. McElrath III
_____
(signature)

Address:

_____

_____

UBER TECHNOLOGIES, INC.

2013 EQUITY INCENTIVE PLAN

STOCK OPTION AGREEMENT

1. **Grant of Option.** Uber Technologies, Inc., a Delaware corporation (the "Company"), hereby grants to Lenza McElrath ("Optionee"), an option (the "Option") to purchase the total number of shares of Class A Common Stock (the "Shares") set forth in the Notice of Stock Option Grant (the "Notice"), at the exercise price per Share set forth in the Notice (the "Exercise Price") subject to the terms, definitions and provisions of the Uber Technologies, Inc. 2013 Equity Incentive Plan (the "Plan"), adopted by the Company, which is incorporated in this Agreement by reference. Unless otherwise defined in this Agreement, the terms used in this Agreement shall have the meanings defined in the Plan.

2. **Designation of Option.** This Option is intended to be an Incentive Stock Option as defined in Section 422 of the Code only to the extent so designated in the Notice, and to the extent it is not so designated or to the extent this Option does not qualify as an Incentive Stock Option, it is intended to be a Nonstatutory Stock Option.

Notwithstanding the above, if designated as an Incentive Stock Option, in the event that the Shares subject to this Option (and all other Incentive Stock Options granted to Optionee by the Company or any Parent or Subsidiary, including under other plans of the Company) that first become exercisable in any calendar year have an aggregate fair market value (determined for each Share as of the date of grant of the option covering such Share) in excess of $100,000, the Shares in excess of $100,000 shall be treated as subject to a Nonstatutory Stock Option, in accordance with Section 5(c) of the Plan.

3. **Exercise of Option.** This Option shall be exercisable during its term in accordance with the Vesting/Exercise Schedule set out in the Notice and with the provisions of Section 10 of the Plan as follows:

(a) **Right to Exercise.**

(i) This Option may not be exercised for a fraction of a share.

(ii) In the event of Optionee's death, Disability or other termination of Continuous Service Status, the exercisability of this Option is governed by Section 5 below, subject to the limitations contained in this Section 3.

(iii) In no event may this Option be exercised after the Expiration Date set forth in the Notice.

(b) **Method of Exercise.**

(i) This Option shall be exercisable by execution and delivery of the Exercise Agreement attached hereto as Exhibit A or of any other form of written notice approved for such purpose by the Company which shall state Optionee's election to exercise this Option, the number of Shares in respect of which this Option is being exercised, and such other representations and agreements as to the holder's investment intent with respect to such Shares as may be required

by the Company pursuant to the provisions of the Plan. Such written notice shall be signed by Optionee and shall be delivered to the Company by such means as are determined by the Plan Administrator in its discretion to constitute adequate delivery. The written notice shall be accompanied by payment of the aggregate Exercise Price for the purchased Shares.

(ii) As a condition to the exercise of this Option and as further set forth in Section 8 of the Plan, Optionee agrees to make adequate provision for federal, state or other tax withholding obligations, if any, which arise upon the grant, vesting or exercise of this Option, or disposition of Shares, whether by withholding, direct payment to the Company, or otherwise.

(iii) The Company is not obligated, and will have no liability for failure, to issue or deliver any Shares upon exercise of this Option unless such issuance or delivery would comply with the Applicable Laws, with such compliance determined by the Company in consultation with its legal counsel. This Option may not be exercised until such time as the Plan has been approved by the holders of capital stock of the Company, or if the issuance of such Shares upon such exercise or the method of payment of consideration for such Shares would constitute a violation of any Applicable Laws, including any applicable U.S. federal or state securities laws or any other law or regulation, including any rule under Part 221 of Title 12 of the Code of Federal Regulations as promulgated by the Federal Reserve Board. As a condition to the exercise of this Option, the Company may require Optionee to make any representation and warranty to the Company as may be required by the Applicable Laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to Optionee on the date on which this Option is exercised with respect to such Shares.

(iv) Subject to compliance with Applicable Laws, this Option shall be deemed to be exercised upon receipt by the Company of the appropriate written notice of exercise accompanied by the Exercise Price and the satisfaction of any applicable withholding obligations.

4. **Method of Payment.** Payment of the Exercise Price shall be by any of the following, or a combination of the following, at the election of Optionee:

(a) cash or check;

(b) cancellation of indebtedness;

(c) at the discretion of the Plan Administrator on a case by case basis, by surrender of other shares of Common Stock of the Company (either directly or by stock attestation) that Optionee previously acquired and that have an aggregate Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Shares as to which this Option is being exercised;

(d) by participating in a formal cashless exercise program implemented by the Plan Administrator in connection with the Plan;

(e) provided that a public market for the Common Stock exists, subject to compliance with applicable law, by exercising as set forth below, through a "same day sale" commitment from Optionee and a broker-dealer whereby Optionee irrevocably elects to exercise this Option and to sell a portion of the Shares so purchased sufficient to pay the total Exercise

Price, and whereby the broker-dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price directly to the Company; or

(f) by any combination of the foregoing or any other method of payment approved by the Plan Administrator that constitutes legal consideration for the issuance of Shares.

5. **Termination of Relationship.** Following the date of termination of Optionee's Continuous Service Status for any reason (the "Termination Date"), Optionee may exercise this Option only as set forth in the Notice and this Section 5. If Optionee does not exercise this Option within the Termination Period set forth in the Notice or the termination periods set forth below, this Option shall terminate in its entirety. In no event, may any Option be exercised after the Expiration Date of this Option as set forth in the Notice. Notwithstanding any provision in the Plan or this Agreement to the contrary, on or after Optionee's Termination Date, this Option may not be exercised with respect to any Shares that are Unvested Shares as determined pursuant to the Vesting/Exercise Schedule set forth in the Notice on Optionee's Termination Date.

(a) **Termination.** In the event of termination of Optionee's Continuous Service Status other than as a result of Optionee's Disability or death or for Cause, Optionee may, to the extent Optionee is vested in the Option Shares, exercise this Option during the Termination Period set forth in the Notice.

(b) **Other Terminations.** In connection with any termination other than a termination covered by Section 5(a), Optionee may exercise this Option only as described below:

(i) **Termination upon Disability of Optionee.** In the event of termination of Optionee's Continuous Service Status as a result of Optionee's Disability, Optionee may, but only within six (6) months following the Termination Date, exercise this Option to the extent Optionee is vested in the Option Shares.

(ii) **Death of Optionee.** In the event of termination of Optionee's Continuous Service Status as a result of Optionee's death, or in the event of Optionee's death within thirty (30) days following Optionee's Termination Date, this Option may be exercised at any time within twelve (12) months following the date of death (or, if earlier, the date Optionee's Continuous Service Status terminated) by Optionee's estate or by a person who acquired the right to exercise this Option by bequest or inheritance, but only to the extent Optionee is vested in this Option.

(iii) **Termination for Cause.** In the event of termination of Optionee's Continuous Service Status for Cause, this Option (including any vested portion thereof) shall immediately terminate in its entirety upon first notification to Optionee of such termination for Cause. If Optionee's Continuous Service Status is suspended pending an investigation of whether Optionee's Continuous Service Status will be terminated for Cause, all Optionee's rights under this Option, including the right to exercise this Option, shall be suspended during the investigation period.

6. **Non-Transferability of Option.** This Option may not be transferred in any manner other than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by him or her. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of Optionee.

7. **Lock-Up Agreement.** In connection with the initial public offering of the Company's securities and upon request of the Company or the underwriters managing any underwritten offering of the Company's securities, Optionee hereby agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company however and whenever acquired (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed 180 days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the public offering; provided, however, that, if during the last 17 days of the restricted period the Company issues an earnings release or material news or a material event relating to the Company occurs, or prior to the expiration of the restricted period the Company announces that it will release earnings results during the 16-day period beginning on the last day of the restricted period, then, upon the request of the managing underwriter, to the extent required by any FINRA rules, the restrictions imposed by this subsection (a) shall continue to apply until the end of the third trading day following the expiration of the 15-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event. In no event will the restricted period extend beyond 216 days after the effective date of the registration statement.

8. **Effect of Agreement.** Optionee acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof (and has had an opportunity to consult counsel regarding the Option terms), and hereby accepts this Option and agrees to be bound by its contractual terms as set forth herein and in the Plan. Optionee hereby agrees to accept as binding, conclusive and final all decisions and interpretations of the Plan Administrator regarding any questions relating to this Option. In the event of a conflict between the terms and provisions of the Plan and the terms and provisions of the Notice and this Agreement, the Plan terms and provisions shall prevail.

9. **Miscellaneous.**

(a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

(b) **Entire Agreement; Enforcement of Rights.** This Agreement, together with the Notice of Stock Option Grant to which this Agreement is attached, the Exercise Agreement and the Plan, sets forth the entire agreement and understanding of the parties relating to the subject matter herein and therein and merges all prior discussions between the parties. Except as contemplated under the Plan, no modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.

(c) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under Applicable Laws, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of

this Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of this Agreement shall be enforceable in accordance with its terms.

(d) **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient when delivered personally or at time of transmission if sent by telegram or fax or forty-eight (48) hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, or at the time an electronic confirmation of receipt is received if delivery is by email, and addressed to the party to be notified at such party's address as set forth below or as subsequently modified by written notice. Any notice for delivery outside the United States will be sent by email, facsimile or by express courier.

(e) **Counterparts.** This Option may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) **Successors and Assigns.** The rights and benefits of this Agreement shall inure to the benefit of, and be enforceable by the Company's successors and assigns. The rights and obligations of Optionee under this Agreement may not be assigned without the prior written consent of the Company.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed or, in the case of the Company, caused this Agreement to be executed by its officers thereunto duly authorized, effective as of the Date of Grant set forth in the accompanying Notice of Stock Option Grant.

THE COMPANY:

UBER TECHNOLOGIES, INC.

By: _____
(signature)

Name: Travis Kalanick
Title: CEO

OPTIONEE:

Lenza McElrath

Lenza H. McElrath III

_____
(signature)

EXHIBIT A

UBER TECHNOLOGIES, INC.
2013 EQUITY INCENTIVE PLAN

EXERCISE AGREEMENT

This Exercise Agreement (this "Agreement") is made as of _____, by and between Uber Technologies, Inc., a Delaware corporation (the "Company"), and Lenza McElrath ("Purchaser"). To the extent any capitalized terms used in this Agreement are not defined, they shall have the meaning ascribed to them in the Company's 2013 Equity Incentive Plan (the "Plan").

1. **Exercise of Option.** Subject to the terms and conditions hereof, Purchaser hereby elects to exercise his or her option to purchase _____ shares of the Class A Common Stock (the "Shares") of the Company under and pursuant to the Plan and the Stock Option Agreement granted _____ (the "Option Agreement"). The purchase price for the Shares shall be $_____ per Share for a total purchase price of $_____. The term "Shares" refers to the purchased Shares and all securities received as stock dividends or splits, all securities received in replacement of the Shares in a recapitalization, merger, reorganization, exchange or the like, and all new, substituted or additional securities or other property to which Purchaser is entitled by reason of Purchaser's ownership of the Shares.

2. **Time and Place of Exercise.** The purchase and sale of the Shares under this Agreement shall occur at the principal office of the Company simultaneously with the execution and delivery of this Agreement, the payment of the aggregate exercise price by any method listed in Section 4 of the Option Agreement, and the satisfaction of any applicable tax withholding obligations, all in accordance with the provisions of Section 3(b) of the Option Agreement. The Company shall issue the Shares to Purchaser by entering such Shares in Purchaser's name as of such date in the books and records of the Company or, if applicable, a duly authorized transfer agent of the Company, against payment of the exercise price therefor by Purchaser.

3. **Restrictions and Limitations on Transfer.** In addition to any other limitation on transfer created by applicable securities laws, Purchaser shall not assign, encumber or dispose of any interest in the Shares except in compliance with the provisions below and applicable securities laws.

(a) The holder of any security of the Company (a "***Security Holder***"), including Purchaser, shall not, directly or indirectly, transfer, assign, pledge, encumber, hypothecate or otherwise dispose of or encumber (including any conveyance of any economic or pecuniary interest in) any security of the Company (a "***Security***"), other than by means of a Permitted Transfer (as defined below), without the prior written consent of the Board (or an authorized committee of the Board), which consent may be withheld in its sole discretion. If any provision(s) of any agreement(s) currently in effect by and between the Company and any Security Holder (the "***Security Holder Agreement(s)***") conflicts with Section 8.12 of the Company's bylaws, Section 8.12 shall govern, and the non-conflicting remainder of the Security Holder Agreement(s) shall continue in full force and effect; provided that Section 3(b) shall be deemed not to conflict with Section 8.12 of the Company's bylaws.

(b) For purposes of the transfer restrictions set forth herein, a "***Security***" shall be deemed to be "***Transferred***" in (a) any sale, assignment, transfer, conveyance, hypothecation or other transfer or disposition of a share of any security of the Company or any legal or beneficial interest in such security, whether or not for value and whether voluntary or involuntary or by operation of law, including, without limitation, a transfer of a share of any security to a broker or other nominee (regardless of whether there is a corresponding change in beneficial ownership), or the transfer of, or entering into a binding agreement with respect to, voting control over such security by proxy or otherwise, (b) any hedging or other transaction which is designed to or which reasonably could be expected to lead to or result in a sale or disposition of any security of the Company, even if any security of the Company would be disposed of by someone other than the Security Holder, (c) any transaction involving any short sale or any purchase, sale or grant of any right (including, without limitation, any put or call option) with respect to any security of the Company or with respect to any security that includes, relates to, or derives any significant part of its value from any security of the Company, or (d) any other transaction by Purchaser related to or affecting the ownership, possession or other rights (voting, economic or otherwise) of a security that the Board, in good faith, deems Transferred.

(c) A "***Permitted Transfer***" as used in this Section 3 shall be defined as:

(i) any repurchase of a Security by the Company: (i) at cost, upon the occurrence of certain events, such as the termination of employment or services; or (ii) at any price pursuant to the Company's exercise of a right of first refusal to repurchase such shares;

(ii) the transfer of any or all of the Securities held by a Security Holder to a single trust for the benefit of the Security Holder or the Security Holder's Immediate Family;

(iii) any transfer effected pursuant to the Security Holder's will or the laws of intestate succession;

(iv) if the Security Holder is a partnership, limited liability company or a corporation, no more than five (5) transfers to an Affiliate (as defined below) of such partnership, limited liability company or corporation; and/or

(v) the transfer by a Major Investor (as defined in the Amended and Restated Right of First Refusal and Co-Sale Agreement dated August 1, 2013, as amended from time to time, or any successor agreement (the "***Co-Sale Agreement***")) exercising such Major Investor's Co-Sale Right (as defined in the Co-Sale Agreement).

(d) In the case of any transfer consented to by the Company or described in subsection (c) above, the transferee, assignee, or other recipient shall receive and hold the Securities subject to the provisions of this Section 3, and there shall be no further transfer of such stock except in accordance with this Section 3.

(e) The restrictions in this Section 3 shall terminate upon the earlier to occur of (i) the closing of a Liquidation Transaction (as such term is defined in the Company's Restated Certificate of Incorporation, as amended or restated from time to time) (a "***Liquidation Transaction***") or (ii) immediately prior to an initial public offering under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the "***Securities Act***")

pursuant to which all outstanding shares of the Company's preferred stock convert to common stock (an "***IPO***"). Upon termination of such restrictions, a new certificate or certificates representing the outstanding Shares shall be issued, on request, without the legend referred to in subsection 8(a)(iv) below and delivered to Purchaser.

(f) Purchaser shall comply with the Company's insider trading policy and code of conduct (or related policies) as may be adopted or amended from time to time by the Board (the "***Policies***"). To the extent Purchaser is not an employee of the Company, Purchaser shall comply with the Policies in the same manner as-if Purchaser were deemed an employee of the Company as defined in the Policies.

4. **Right of First Refusal.**

(a) **Right of First Refusal.** Subject to the limitations set forth in Section 3 above, before any Shares held by Purchaser or any transferee of Purchaser (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section 4(a) (the "Right of First Refusal").

(i) **Notice of Proposed Transfer.** The Holder of the Shares shall deliver to the Company a written notice (the "Notice") stating: (i) the Holder's bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the terms and conditions of each proposed sale or transfer. The Holder shall offer the Shares at the same price (the "Purchase Price") and upon the same terms (or terms as similar as reasonably possible) to the Company or its assignee(s).

(ii) **Exercise of Right of First Refusal.** At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the Purchase Price. If the Purchase Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board in good faith.

(iii) **Payment.** Payment of the Purchase Price shall be made, at the election of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness, or by any combination thereof within sixty (60) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(iv) **Holder's Right to Transfer.** If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 4(a), then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Purchase Price or at a higher price, provided that such sale or other transfer is consummated within one hundred twenty (120) days after the date of the Notice and provided further that any such sale or other transfer is effected in accordance with any applicable securities laws and the Proposed Transferee agrees in writing that the provisions of Section 3 and this Section 4 shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, or if the Holder proposes to change the price or other terms to make them more

favorable to the Proposed Transferee, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(v) **Exception for Certain Family Transfers.** Anything to the contrary contained in this Section 4(a) notwithstanding, and provided that such transfer complies with Section 3 and applicable securities laws, the transfer of any or all of the Shares during Purchaser's lifetime or on Purchaser's death by will or intestacy to Purchaser's Immediate Family or a single trust for the benefit of the Purchaser or the Purchaser's Immediate Family shall be exempt from the provisions of this Section 4(a).

(b) **Company's Right to Purchase upon Involuntary Transfer.** In the event of any transfer by operation of law or other involuntary transfer (including death or divorce, but excluding a transfer to Immediate Family as set forth in Section 4(a)(v) above) of all or a portion of the Shares by the record holder thereof, the Company shall have an option to purchase all of the Shares transferred at the greater of the purchase price paid by Purchaser pursuant to this Agreement or the Fair Market Value of the Shares on the date of transfer (as determined by the Board). Upon such a transfer, the person acquiring the Shares shall promptly notify the Secretary of the Company of such transfer. The right to purchase such Shares shall be provided to the Company for a period of thirty (30) days following receipt by the Company of written notice by the person acquiring the Shares.

(c) **Assignment.** The right of the Company to purchase any part of the Shares may be assigned in whole or in part to any holder or holders of capital stock of the Company or other persons or organizations.

(d) **Restrictions Binding on Transferees.** All transferees of Shares or any interest therein will receive and hold such Shares or interest subject to the provisions of this Agreement. Any sale or transfer of the Company's Shares shall be void unless the provisions of this Agreement are satisfied.

(e) **Termination of Rights.** The right of first refusal granted the Company by Section 4(a) above and the option to repurchase the Shares in the event of an involuntary transfer granted the Company by Section 4(b) above shall terminate upon the earlier to occur of (i) the closing of a Liquidation Transaction or (ii) immediately prior to an IPO. Upon termination of the right of first refusal described in Section 4(a) above pursuant to this paragraph (e), the Company will remove any stop-transfer notices referred to in Section 8(b) below and related to the restrictions in this Section 4 and, if certificates are issued, a new certificate or certificates representing the Shares not repurchased shall be issued, on request, without the legend referred to in Section 8(a)(ii) below and delivered to Purchaser.

5. **Investment and Taxation Representations.** In connection with the purchase of the Shares, Purchaser represents to the Company the following:

(a) Purchaser is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Shares. Purchaser is purchasing these securities for investment for his or her own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act or under any applicable

provision of state law. Purchaser does not have any present intention to transfer the Shares to any person or entity.

(b) Purchaser understands that the Shares have not been registered under the Securities Act by reason of a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Purchaser's investment intent as expressed herein.

(c) Purchaser further acknowledges and understands that the securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Purchaser further acknowledges and understands that the Company is under no obligation to register the securities. Purchaser understands that the transfer of the securities is prohibited unless they are registered or such registration is not required in the opinion of counsel for the Company, which opinion is in a form satisfactory to the Company, and that the certificate(s) evidencing the securities will be imprinted with a legend providing for the foregoing.

(d) Purchaser is familiar with the provisions of Rules 144 and 701, each promulgated under the Securities Act, which, in substance, permit limited public resale of "restricted securities" acquired, directly or indirectly, from the issuer of the securities (or from an affiliate of such issuer), in a non-public offering subject to the satisfaction of certain conditions. Purchaser understands that the Company provides no assurances as to whether he or she will be able to resell any or all of the Shares pursuant to Rule 144 or Rule 701, which rules require, among other things, that the Company be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, that resales of securities take place only after the holder of the Shares has held the Shares for certain specified time periods and under certain circumstances, that resales of securities be limited in volume and take place only pursuant to brokered transactions. Notwithstanding this paragraph (d), Purchaser acknowledges and agrees to the restrictions set forth in paragraph (e) below.

(e) Purchaser further understands that in the event all of the applicable requirements of Rule 144 or 701 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rule 144 or 701 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk.

(f) Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser's purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for any tax advice.

(g) Purchaser hereby acknowledges that Purchaser has been informed that, unless an election is filed by the Purchaser with the Internal Revenue Service (and, if necessary, the proper state taxing authorities), **within 30 days of the purchase** of the Unvested Shares, electing pursuant to Section 83(b) of the Code (and similar state tax provisions, if applicable) to be taxed currently on any difference between the purchase price of the Unvested Shares and their

Fair Market Value on the date of purchase, there may be a recognition of taxable income (including, where applicable, alternative minimum taxable income) to the Purchaser, measured by the excess, if any, of the Fair Market Value of the Unvested Shares at the time they cease to be Unvested Shares, over the purchase price of the Unvested Shares. A form of Election under Section 83(b) is attached hereto as Attachment 1 for reference. PURCHASER HEREBY ASSUMES ALL RESPONSIBILITY FOR FILING SUCH ELECTION AND PAYING ANY TAXES RESULTING FROM SUCH ELECTION OR THE LAPSE OF THE REPURCHASE RESTRICTIONS ON THE UNITED STATES.

6. **Company's Repurchase Option**. The Company, or its assignee, shall have the option to repurchase all or a portion of the Unvested Shares (as such term is defined in the Notice of Stock Option Grant for the Option Agreement) on the terms and conditions set forth in this Section (the "Repurchase Option") if Purchaser should cease to be employed by the Company for any reason, or no reason, including, without limitation, Purchaser's death, Disability, voluntary resignation or termination by the Company with or without cause.

(a) Right of Termination Unaffected. Nothing in this Agreement shall be construed to limit or otherwise affect in any manner whatsoever the right or power of the Company to terminate Purchaser's employment at any time, for any reason or no reason, with or without cause. For purposes of this Agreement, Purchaser shall be considered to be employed by the Company if Purchaser is an officer, director or full-time employee of the Company or any Parent, Subsidiary or Affiliate of the Company or if the Board of Directors of the Company determines that Purchaser is rendering substantial services as a part-time employee, consultant, contractor or advisor to the Company or any Parent, Subsidiary or Affiliate of the Company. The Committee of the Company shall have discretion to determine whether Purchaser has ceased to be employed by the Company or any Parent, Subsidiary or Affiliate of the Company, whether termination is for Cause, and the date of such termination (the "Termination Date"), and such determination shall be binding on Purchaser.

(b) Exercise of Repurchase Option. At any time within 90 days after the later of the Termination Date and the date Purchaser purchased the Shares, the Company, or its assignee, may elect to repurchase all or a portion of the Unvested Shares by giving Purchaser written notice of exercise of the Repurchase Option.

(c) Calculation of Repurchase Price. The Company or its assignee shall have the option to repurchase from Purchaser (or from Purchaser's personal representative as the case may be) all or a portion of the Unvested Shares at the purchase price per Share paid by the Purchaser as provided in Section 1 hereof.

(d) Payment of Repurchase Price. The repurchase price shall be payable, at the option of the Company or its assignee, by check or by cancellation of all or a portion of any outstanding indebtedness of Purchaser to the Company or such assignee, or by any combination thereof. The repurchase price shall be paid without interest within 30 days after exercise of the Repurchase Option.

7. **Escrow of Unvested Shares.** For purposes of facilitating the enforcement of the provisions of Section 3 and 6 above, Purchaser agrees, immediately upon receipt of the certificate(s) for the Shares subject to the Repurchase Option, to deliver such certificate(s), together with an Assignment Separate from Certificate in the form attached to this Agreement as

Attachment A executed by Purchaser and by Purchaser's spouse (if required for transfer), in blank, to the Secretary of the Company, or the Secretary's designee, to hold such certificate(s) and Assignment Separate from Certificate in escrow and to take all such actions and to effectuate all such transfers and/or releases as are in accordance with the terms of this Agreement. Purchaser hereby acknowledges that the Secretary of the Company, or the Secretary's designee, is so appointed as the escrow holder with the foregoing authorities as a material inducement to make this Agreement and that said appointment is coupled with an interest and is accordingly irrevocable. Purchaser agrees that said escrow holder shall not be liable to any party hereof (or to any other party). The escrow holder may rely upon any letter, notice or other document executed by any signature purported to be genuine and may resign at any time. Purchaser agrees that if the Secretary of the Company, or the Secretary's designee, resigns as escrow holder for any or no reason, the Board shall have the power to appoint a successor to serve as escrow holder pursuant to the terms of this Agreement.

8. **Restrictive Legends and Stop-Transfer Orders.**

(a) **Legends.** The certificate or certificates representing the Shares shall bear the following legends (as well as any legends required by applicable state and federal corporate and securities laws):

(i) THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL FOR THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

(ii) THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE HOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

(iii) THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON PUBLIC RESALE AND TRANSFER, INCLUDING THE RIGHT OF REPURCHASE AND RIGHT OF FIRST REFUSAL HELD BY THE ISSUER AND/OR ITS ASSIGNEE(S), AND A MARKET STANDOFF AGREEMENT AS SET FORTH IN A STOCK OPTION EXERCISE AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH PUBLIC SALE AND TRANSFER RESTRICTIONS INCLUDING THE RIGHT OF REPURCHASE, RIGHT OF FIRST REFUSAL AND THE MARKET STANDOFF ARE BINDING ON TRANSFEREES OF THESE SHARES.

(iv) THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER CONTAINED IN THE BYLAWS OF THE COMPANY.

(b) **Stop-Transfer Notices.** Purchaser agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate "stop transfer" instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) **Refusal to Transfer.** The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

9. **No Employment Rights.** Nothing in this Agreement shall affect in any manner whatsoever the right or power of the Company, or a parent or subsidiary of the Company, to terminate Purchaser's employment or consulting relationship, for any reason, with or without cause.

10. **Lock-Up Agreement.** In connection with the initial public offering of the Company's securities and upon request of the Company or the underwriters managing any underwritten offering of the Company's securities, Purchaser agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company however or whenever acquired (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed one hundred eighty (180) days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the public offering; provided however that, if during the last 17 days of the restricted period the Company issues an earnings release or material news or a material event relating to the Company occurs, or prior to the expiration of the restricted period the Company announces that it will release earnings results during the 16-day period beginning on the last day of the restricted period, then, upon the request of the managing underwriter, to the extent required by any FINRA rules, the restrictions imposed by this Section 10 shall continue to apply until the end of the third trading day following the expiration of the 15-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event. In no event will the restricted period extend beyond 216 days after the effective date of the registration statement.

11. **Miscellaneous.**

(a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

(b) **Entire Agreement; Enforcement of Rights.** This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement,

nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.

(c) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under Applicable Laws, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

(d) **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient when delivered personally or at time of transmission if sent by telegram or fax or forty-eight (48) hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, or at the time an electronic confirmation of receipt is received if delivery is by email, and addressed to the party to be notified at such party's address as set forth below or as subsequently modified by written notice.

(e) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) **Successors and Assigns.** The rights and benefits of this Agreement shall inure to the benefit of, and be enforceable by the Company's successors and assigns. The rights and obligations of Purchaser under this Agreement may only be assigned with the prior written consent of the Company.

(g) **California Corporate Securities Law.** THE SALE OF THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF THE SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO THE QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATION BY SECTION 25100, 25102 OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON THE QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.

[Signature Page Follows]

The parties have executed this Exercise Agreement as of the date first set forth above.

THE COMPANY:

UBER TECHNOLOGIES, INC.

By: _____
(signature)

Name:

Title:

Address:

OPTIONEE:

Lenza McElrath

_____
(signature)

I, _____, spouse of Lenza McElrath, have read and hereby approve the foregoing Agreement. In consideration of the Company's granting my spouse the right to purchase the Shares as set forth in the Agreement, I hereby agree to be irrevocably bound by the Agreement and further agree that any community property or other such interest shall hereby by similarly bound by the Agreement. I hereby appoint my spouse as my attorney-in-fact with respect to any amendment or exercise of any rights under the Agreement.

_____
Spouse of Lenza McElrath (if applicable)

ATTACHMENT 1

SECTION 83(b) ELECTION

ELECTION UNDER SECTION 83(b) OF THE INTERNAL REVENUE CODE

The undersigned Taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include the excess, if any, of the fair market value of the property described below at the time of transfer over the amount paid for such property, as compensation for services in the calculation of: (1) regular gross income; (2) alternative minimum taxable income; or (3) disqualifying disposition gross income, as the case may be.

1. TAXPAYER'S NAME: _____

   TAXPAYER'S ADDRESS: _____

   _____

   SOCIAL SECURITY NUMBER: _____

2. The property with respect to which the election is made is described as follows: _____ shares of Class A Common Stock of ***UBER TECHNOLOGIES, INC.***, a Delaware corporation (the "***Company***") which were transferred upon exercise of an option by Company, which is Taxpayer's employer or the corporation for whom the Taxpayer performs services.

3. The date on which the shares were transferred pursuant to the exercise of the option was _____, _____ and this election is made for calendar year _____.

4. The shares received upon exercise of the option are subject to the following restrictions: The Company may repurchase all or a portion of the shares at Taxpayer's original purchase price per share, under certain conditions at the time of Taxpayer's termination of employment or services.

5. The fair market value of the shares (without regard to restrictions other than restrictions which by their terms will never lapse) was $_____ per share x _____ shares = $_____ at the time of exercise of the option.

6. The amount paid for such shares upon exercise of the option was $____ per share x _____ shares = $_____.

7. The Taxpayer has submitted a copy of this statement to the Company.

8. The amount to include in gross income is $_____. [The result of the amount reported in Item 5 minus the amount reported in Item 6.]

*THIS ELECTION MUST BE FILED WITH THE INTERNAL REVENUE SERVICE ("**IRS**"), AT THE OFFICE WHERE THE TAXPAYER FILES ANNUAL INCOME TAX RETURNS, WITHIN 30 DAYS AFTER THE DATE OF TRANSFER OF THE SHARES, AND MUST ALSO BE FILED WITH THE TAXPAYER'S INCOME TAX RETURNS FOR THE CALENDAR YEAR. THE ELECTION CANNOT BE REVOKED WITHOUT THE CONSENT OF THE IRS.*

Dated: _____ _____

Lenza McElrath

ATTACHMENT A

STOCK POWER AND ASSIGNMENT
SEPARATE FROM STOCK CERTIFICATE

STOCK POWER AND ASSIGNMENT
SEPARATE FROM STOCK CERTIFICATE

FOR VALUE RECEIVED and pursuant to that certain Stock Option Exercise Agreement dated as of _____, _____, (the "***Agreement***"), the undersigned hereby sells, assigns and transfers unto ,_____ _____ (_____) shares of the Class A Common Stock $0.00001 par value per share, of Uber Technologies, Inc., a Delaware corporation (the "***Company***"), standing in the undersigned's name on the books of the Company represented by Certificate No(s). _____ delivered herewith, and does hereby irrevocably constitute and appoint the Secretary of the Company as the undersigned's attorney-in-fact, with full power of substitution, to transfer said stock on the books of the Company. *THIS ASSIGNMENT MAY ONLY BE USED AS AUTHORIZED BY THE AGREEMENT AND ANY EXHIBITS THERETO.*

Dated: _____, _____

PURCHASER

_____
(Signature)

_____
(Please Print Name)

_____
(Spouse's Signature, if any)

_____
(Please Print Spouse's Name)

Instructions to Purchaser: Please do not fill in any blanks other than the signature line. The purpose of this Stock Power and Assignment is to enable the Company to acquire the shares and to exercise its "Refusal Right" or "Repurchase Option" set forth in the Agreement without requiring additional signatures on the part of the Purchaser or Purchaser's Spouse, if any.

JS 44 (Rev. 12/12) cand rev (1/15/13)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
LENZA H. McELRATH, III, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff King, State of WA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
R. Scott Erlewine (CSB#095106)
Phillips, Erlewine, Given & Carlin LLP
39 Mesa Street, Suite 201 - The Presidio
San Francisco, CA 94129
415-398-0900

DEFENDANTS
UBER TECHNOLOGIES, INC.

County of Residence of First Listed Defendant San Francisco
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☒ 4
Citizen of Another State	☒ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☒ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS
Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

V. ORIGIN *(Place an "X" in One Box Only)*
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 U.S.C. sections 1332(a)(1) and 1332(d)
Brief description of cause:
Breach of Contract, Fraud, UCL

VII. REQUESTED IN COMPLAINT:
☒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.
DEMAND $ $5,000,000+
CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*: JUDGE _____ DOCKET NUMBER _____

DATE December 19, 2016
SIGNATURE OF ATTORNEY OF RECORD
R. Scott Erlewine

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)
(Place an "X" in One Box Only)
☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA

NDC-JS44