

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to transportation network company driver labor standards; establishing minimum labor and compensation standards for transportation network company drivers; establishing provision of or reimbursement for personal protective equipment to transportation network company drivers during the civil emergency declared on March 3, 2020; establishing notice, posting, and data requirements for transportation network companies; prescribing remedies and enforcement procedures; amending Section 3.15.000 of the Seattle Municipal Code; amending the title of Chapter 14.31 and Sections 6.208.020 and 14.31.010 of the Seattle Municipal Code; and adding a new Chapter 14.33 to the Seattle Municipal Code.

..body

WHEREAS, the Washington Constitution provides in Article XI, Section 11 that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws”; and

WHEREAS, the state of Washington, in Revised Code of Washington (RCW) 46.72.001, has authorized political subdivisions of the state to regulate for-hire drivers and for-hire transportation services, which terms encompass the regulation of transportation network company (TNC) drivers, TNCs, and TNC services, to ensure safe and reliable TNC services; and

WHEREAS, TNCs provide application dispatch services that allow passengers to directly request the dispatch of drivers via the internet using mobile interfaces such as smartphone applications; and

WHEREAS, in 2019, the two largest TNCs accounted for over 26 million trips in the City of Seattle. At their peak in 2012, taxicabs in the City and King County provided about 5.2 million trips; and

1 WHEREAS, the two largest TNCs are also major hiring entities, accounting for most of the
2 33,058 TNC drivers issued permits by King County in 2019 as recorded by the King
3 County Department of Licensing; and

4 WHEREAS, the City, TNC drivers, TNCs, and the public agree that TNC drivers should be
5 compensated fairly and earn at least the equivalent of the “hourly minimum wage”
6 established for Schedule 1 employers in Chapter 14.19 plus reasonable expenses; and

7 WHEREAS, the establishment of a minimum compensation standard better ensures that drivers
8 can perform their services in a safe and reliable manner and thereby promotes the welfare
9 of the people and is thus a fundamental governmental function; and

10 WHEREAS, the City is a leader on wage, labor, and workforce practices that improve workers’
11 lives, support economic security, and contribute to a fair, healthy, and vibrant economy;
12 and

13 WHEREAS, the establishment of minimum labor standards for TNC drivers is a subject of vital
14 and imminent concern to the people of this City and requires appropriate action by City
15 Council to establish such minimum labor standards within the City; NOW,

16 THEREFORE,

17 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

18 Section 1. Findings

19 A. In order to protect the public health, safety, and welfare, The City of Seattle is granted
20 express authority to regulate for-hire transportation services pursuant to chapter 46.72 RCW.

21 This authority includes regulating entry, requiring a license, controlling rates, establishing safety
22 requirements, and any other requirement to ensure safe and reliable transportation services.

1 B. Studies around the nation, including a 2018 study commissioned by the New York
2 City Taxi and Limousine Commission (New York TLC) entitled *An Earnings Standard for New*
3 *York City's App-based Drivers: Economic Analysis and Policy Assessment* and a 2018
4 nationwide study by the Economic Policy Institute entitled *Uber and the Labor Market: Uber*
5 *Drivers' Compensation, Wages, and the Scale of Uber and the Gig Economy* (Economic Policy
6 Institute Study), have shown that many transportation network company (TNC) drivers earn
7 below the equivalent of the hourly minimum wage rate established by Chapter 14.19 of the
8 Seattle Municipal Code for Schedule 1 employers.

9 C. A 2018 JPMorgan Chase Institute study entitled *The Online Platform Economy in*
10 *2018* reported a decrease in TNC driver earnings nationwide between 2013 and 2017, a 2019
11 Seattle Times report showed a decrease in the percentage of the passenger fares that drivers are
12 paid, and Uber Technology, Inc.'s April 2019 Form S-1 filing with the Securities and Exchange
13 Commission states "we aim to reduce Driver incentives to improve our financial performance."

14 D. In November 2019, City Council passed and the Mayor signed Ordinance 125977,
15 creating Seattle Municipal Code (SMC) Chapter 14.31 and establishing as City policy that the
16 City create "a minimum compensation standard for TNC drivers that is comprised of at least the
17 equivalent of the 'hourly minimum wage' established for Schedule 1 employers in Chapter 14.19
18 plus "reasonable expenses" and which considers "compensation for available platform time,
19 dispatch platform time, [and] passenger platform time."

20 E. The two largest TNCs (Uber and Lyft) have both publicly stated that they support the
21 City's policy as established in SMC Chapter 14.31. In an April 10, 2020 press release Uber
22 stated "We also are committed to supporting Mayor Durkan's work on a new earnings standard
23 equal to the City's minimum wage plus reasonable expenses..." and that they expected to "avoid

1 the need for any further challenges to the ordinances, whether legally or through a local or state
2 ballot measure.” Similarly, on April 10, 2020, Lyft stated “[a] new safety net with a minimum
3 earnings guarantee and fair worker protections would strengthen the opportunities for
4 independent rideshare drivers to supplement their income through the platform” and that Lyft
5 anticipated that “there should be no need for further legal or ballot challenges to the Fare Share¹
6 ordinance.”²

7 F. In furtherance of that policy and to better understand local TNC driver earnings,
8 expenses, and working time, the City commissioned an independent study to evaluate these
9 issues and retained Dr. James Parrott of The New School and Dr. Michael Reich of the
10 University of California at Berkeley to conduct the study. Parrott and Reich based their research
11 on a survey of over 7,390 Seattle TNC drivers, data provided directly by the TNCs, and existing
12 licensing and regulatory data from the City and King County.

13 G. Parrott and Reich found that 84 percent of TNC drivers currently earn below the
14 equivalent of the hourly minimum wage rate established by SMC Chapter 14.19 for Schedule 1
15 employers after accounting for reasonable expenses. Parrott and Reich determined that such
16 reasonable expenses amount to \$11.80 on an hourly basis or \$0.725 per mile and that average
17 gross TNC driver earnings were \$21.53. Accordingly, they concluded that TNC drivers average
18 hourly earnings are \$9.73 after accounting for reasonable expenses.³

19 H. In Parrott and Reich’s determination of reasonable expenses, they included a \$.004 per
20 mile rate for vehicle cleaning to cover 12 car washes a year. Parrott and Reich found that

¹ Fare Share is the public facing name for the Mayor’s minimum compensation proposal codified in this ordinance.

² <https://news.seattle.gov/2020/04/10/city-u-s-chamber-of-commerce-rasier-llc-agree-to-dismiss-collective-negotiations-ordinance-lawsuit/>

³ James Parrott and Michael Reich, *A Minimum Compensation Standard for Seattle TNC Drivers: Report for the City of Seattle* at 1-2; 35 (July 2020), available at https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5effff2647a3f573481a187c/1593835306875/Parrott_Report_July22020.pdf.

1 customer ratings are an integral feature of TNC services and drivers need to keep their vehicles
2 clean to enhance their chances of getting high ratings.

3 I. Dr. Marissa Baker of the School of Public Health at the University of Washington has
4 reported to Council, in letters dated August 26, 2020 and September 17, 2020, on the scientific
5 and occupational health justifications for paying TNC drivers for 30 minutes per day to clean and
6 disinfect their vehicles to ensure that TNC drivers and passengers are safe in TNC vehicles
7 during and after the COVID-19 emergency. Dr. Baker has found that in addition to infectious
8 disease exposure, there are other events that occur in a TNC vehicle, such as a passenger
9 vomiting or bleeding, that warrant increased cleaning. Dr. Baker reported that adequate safety
10 measures would require TNC drivers to take time between passengers to clean all aspects of the
11 vehicle that could have been infected by the passenger, including but not limited to cleaning door
12 handles, seat belts, windows, and seat backs, and seats. For the smallest of vehicles, Dr. Baker
13 determined that cleaning would take at least two to three minutes between passengers, and over
14 the course of a day could easily amount to greater than 30 minutes of time.

15 J. Applying Parrott and Reich's methods for determining TNC driver reasonable
16 expenses to 30 minutes of cleaning per day amounts to a \$.0629 per mile rate.

17 K. In addition to determining that reasonable expenses for vehicle cleaning and other
18 standard operating costs, health insurance costs, and independent contractor taxes amount to a
19 \$.725 per mile rate, Parrott and Reich found that compensation for state-mandated rest breaks
20 (i.e., paid rest periods of at least ten minutes for every four hours worked) amounts to \$.6835 on
21 an hourly basis, or a \$.042 per mile rate.

1 L. The Parrott and Reich study also found that 32 percent of TNC drivers drive full time
2 (more than 32 hours a week) and these full-time drivers provide 55 percent of all trips.⁴ The
3 JPMorgan Chase Institute study similarly found that the top ten percent of transportation gig
4 workers earned 56.9 percent of earnings. Further, Parrott and Reich determined that 72 percent
5 of full-time drivers and 58 percent of intermediate drivers (20 to 32 hours per week) rely on TNC
6 driving as their sole source of income.⁵

7 M. Despite this commitment to providing TNC services, many drivers struggle to pay for
8 basic necessities. Thirty percent of drivers receive federal supplemental nutritional assistance,
9 while 27 percent have no health insurance and 37 percent have incomes low enough to qualify
10 for Medicaid coverage.⁶

11 N. In the pursuit of economic opportunity, many TNC drivers are immigrants and people
12 of color—72 percent and 73 percent, respectively—who have taken on debt or invested their
13 savings to purchase and/or lease vehicles to provide TNC services. The Parrott and Reich study
14 found that 83 percent of full-time drivers and 75 percent of intermediate drivers purchased their
15 vehicles primarily to provide TNC services. Further, 70 percent of drivers who own vehicles are
16 still paying loan payments for those vehicles.⁷

17 O. To more fully understand the driver experience, the City engaged in an extensive
18 qualitative research and outreach effort by conducting five driver roundtables, two randomly
19 selected focus groups, an online survey, one-on-one interviews, a telephone town hall, as well as
20 many additional meetings and phone calls, that collectively reached over 9,000 drivers. The
21 driver roundtables included two roundtables organized and convened by Uber and Lyft,

⁴ *Id.* at 1-2.

⁵ *Id.* at 32-33.

⁶ *Id.* at 24.

⁷ *Id.* at 34.

1 respectively, which included drivers that they selected to present a perspective that Uber and
2 Lyft believed was important for the City to consider. This research found that many TNC drivers
3 struggle to pay for basic necessities like housing and health insurance. The research further
4 found that TNC drivers incur significant expenses by reason of performing TNC services.⁸

5 P. TNC drivers in all of the roundtable groups—including the TNC drivers in the
6 roundtables organized and convened by Uber and Lyft—identified several significant expenses
7 that affect their overall earnings from providing TNC services. Specifically, drivers identified
8 gas, maintenance, insurance, interior and exterior cleaning, cell phone and service plans, the cost
9 of vehicle acquisition, financing, and depreciation, among other costs. TNC drivers in the Uber-
10 convened driver roundtable stated that maintenance costs alone account for 25 percent of TNC
11 driver earnings, that gas is “a very large cost,” that they perform car washing “every other day,”
12 and that cars depreciate quickly. Similarly, TNC drivers in the Lyft-convened roundtable stated
13 “My insurance tripled the day I became a rideshare driver,” that expenses can amount to \$32 a
14 day, and that one TNC driver purchased a vehicle specifically to provide TNC services and such
15 services accounted for 93 percent of the miles driven. Similarly, a driver in the online survey
16 commented that “After deducting my cost for car maintenance and gas...I make less than
17 minimum wage driving for Uber...”, while a focus group participant reported “[g]ross shows a lot
18 of money [but] the expenses are almost half of it.”⁹

19 Q. The qualitative research also paralleled Parrott and Reich’s findings in other ways. Of
20 the respondents to the City’s telephone town-hall and online survey, 40 to 50 percent work more

⁸ City of Seattle, *TNC Driver Outreach and Engagement* at 8 (August 13, 2020), available at <https://durkan.seattle.gov/wp-content/uploads/sites/9/2020/08/Final-Outreach-Report.pdf>.

⁹ *Id.*

1 than 32 hours per week providing TNC services. Further, two-thirds of TNC drivers that
2 responded to the online survey said that driving for a TNC is their sole job.¹⁰

3 R. Uber and Lyft likewise commissioned a study to determine TNC hourly earnings,
4 which the City has thoroughly considered. While the Uber/Lyft commissioned study reaches
5 different conclusions in some respects, it is similar to the Parrott and Reich report in that it also
6 found that significant numbers of TNC drivers earn less than the equivalent of the hourly
7 minimum wage rate established by SMC Chapter 14.19 for Schedule 1 employers plus
8 reasonable expenses.¹¹

9 S. The TNCs represent that their business models rely on TNC drivers being classified as
10 independent contractors and that they are exempt from minimum labor standards established by
11 federal, state, and local law.

12 T. TNC drivers receive unpredictable income due to the high variability and opacity of
13 the rates of compensation paid by TNCs, the amount of available platform time and dispatch
14 platform time spent by TNC drivers between passenger trips, and the difficulty TNC drivers
15 experience in determining their reasonable expenses. TNC drivers do not have guaranteed access
16 to information about their expected earnings and expenses, the composition of trip payments or
17 the amount of tips provided by passengers and a 2019 Georgetown University study entitled *The*
18 *Uber Workplace in D.C.* found that “100% of drivers experienced difficulties with, or barriers to,
19 calculating their actual compensation.” Similarly, a driver who participated in the City’s focus
20 group research reported “[t]he flexibility is great, but how many jobs do you ever go to that you
21 don’t know what you are going to be paid. We just don’t know.”¹²

¹⁰ *Id.* at 7.

¹¹ Hyman, Louis et. al., *Platform Driving in Seattle* at 2; 7 (July 2020) available at <https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1070&context=reports>.

¹² City of Seattle, *TNC Driver Outreach and Engagement* at 11.

1 U. Numerous studies, including the Economic Policy Institute Study, calculate driver pay
2 and driver work time by including waiting time or available platform time. In a 2019 study
3 entitled *The Gender Earnings Gap in the Gig Economy: Evidence from over a Million Rideshare*
4 *Drivers*, researchers found, in part, “that driver earnings are a function of wait times between
5 trips.”

6 V. Failure to account for available platform time in a minimum compensation standard
7 likely would result in hourly pay below the equivalent of the hourly minimum wage rate
8 established by SMC Chapter 14.19 for Schedule 1 employers.

9 W. The Parrott and Reich study found that TNCs compensate TNC drivers in Seattle only
10 for passenger platform time, but TNC drivers spend an average of 50.8 percent of each hour or
11 30.48 minutes per hour without a passenger in the car, but while logged on to the driver platform
12 to perform TNC services. The study further determined that TNC drivers in Seattle drive an
13 average of 37.8 per cent of the total miles driven per hour or 6.15 miles per hour without a
14 passenger in the car, but while logged on to the driver platform to perform TNC services.

15 X. The City has repeatedly called on the TNCs to produce data on driver working time,
16 earnings, and expenses in order to analyze and formulate policy to ensure that drivers earn a fair
17 wage and can perform their work in a safe and reliable manner.

18 Y. In April 2018, the City Council passed Resolution 31808 calling on the TNCs to
19 voluntarily share anonymized data on an individual driver and trip level (commonly referred to
20 as “trip level data”), including data on driver working time, trip volumes, distances traveled in
21 available platform time, dispatch platform time, and passenger platform time, fare information,
22 and driver earnings by May 31, 2018. Between May 31, 2018 and January 10, 2020, neither Uber
23 nor Lyft provided the City with any of the requested data.

1 Z. Following the passage of SMC Chapter 14.31, which required the City to conduct a
2 study into TNC driver earnings, working time, and reasonable expenses and propose a minimum
3 compensation standard, Uber and Lyft advised the City that they believed the study should be
4 informed by Uber and Lyft’s data. The City welcomed this offer and called on the companies to
5 voluntarily provide trip-level data covering TNC driver working time, earnings, distances
6 traveled in available platform time, dispatch platform time, and passenger platform time, and
7 other information sufficient to determine TNC driver earnings and expenses.

8 AA. Both Uber and Lyft declined to provide this data.

9 BB. In an attempt at compromise, the City proposed that Uber and Lyft provide summary
10 aggregate data for one representative week in each month beginning October 2018 and ending
11 October 2019 and including:

- 12 1. The total number of TNC drivers, trips, trip miles, and trip minutes;
- 13 2. The distribution of TNC driver trip miles and trip minutes at defined percentile
14 distributions;
- 15 3. The distribution of aggregate available platform time, dispatch platform time,
16 and passenger platform time at defined percentile distributions;
- 17 4. The distribution of passenger fares at defined percentile distributions;
- 18 5. The distribution of TNC driver pay at defined percentile distributions;
- 19 6. The percentage of trips, trip miles, trip minutes, passenger fares, and TNC
20 driver pay that represent shared or pooled trips; and
- 21 7. The composition of the vehicles providing the trips.

22 CC. On January 10, 2020, Uber provided a portion of the requested data. Specifically,
23 Uber provided the distribution of aggregate available platform time, dispatch platform time, and

1 passenger platform time, the distribution of driver pay, and the total number of trips. While not
2 requested by the City, Uber also provided the average speed traveled by TNC drivers during
3 available platform time, dispatch platform time, and passenger platform time as well as the top
4 ten vehicles providing trips originating in Seattle ranked by mileage during the sample period,
5 which comprised 67.16 percent of the total vehicles for this period.

6 DD. On January 10, 2020, Lyft notified the City that it would not provide any of the
7 requested data. Subsequently, on February 13, 2020, Lyft provided a list of the top ten vehicles
8 types providing trips that originated in Seattle between October 2018 and ending October 2019,
9 which comprised 56 percent of the total vehicles. Lyft declined to provide any data on TNC
10 driver earnings or working time.

11 EE. Requirements for affirmative data production by the TNCs covered by SMC Chapter
12 14.33 as created by this ordinance are necessary to effectively enforce the ordinance and
13 understand the effects of the minimum compensation standard. Further, the California Public
14 Utilities Commission, the City of Chicago, the New York TLC, Washington, D.C., and Toronto
15 currently require such affirmative production of trip-level data. The California Public Utilities
16 Commission recently found that TNC trip level data was not protected by trade-secret principles
17 because “neither Uber nor Lyft identify a competitor by name who would gain an unfair
18 competitive disadvantage if their annual reports were made public” and neither “company
19 [could] honestly state that they will be surprised or learn something new about the other if their
20 annual reports were disclosed publicly.”¹³ Similarly, the New York TLC and the City of Chicago
21 release anonymized trip-level data publicly. Neither Uber nor Lyft have experienced adverse

¹³ Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing and New Online Enabled Transportation Services, R.12-12-011 at 20; 36 (March 12, 2020) (available at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M329/K477/329477640.pdf>).

1 effects on their businesses due to the release of this data, nor have passengers or TNC drivers had
2 their privacy interests infringed by such release.

3 FF. Numerous studies suggest minimum compensation and minimum wage standards
4 benefit employers and hiring entities by improving worker performance, reducing worker
5 turnover, and thereby improving productivity and the quality of the services provided by
6 workers, including TNC drivers.

7 GG. Many Seattle workers, including TNC drivers, cannot fully participate in the
8 community's dynamic civic life or pursue its myriad educational, cultural, and recreational
9 opportunities because they struggle to meet their households' most basic needs.

10 HH. Minimum compensation standards support stable incomes and promote job retention
11 by ensuring that TNC drivers are compensated at sufficient levels to support themselves and their
12 families. Further, minimum compensation standards promote the general welfare, health, and
13 prosperity of Seattle by ensuring that workers have stable incomes and can better support and
14 care for their families and fully participate in Seattle's civic, cultural, and economic life.

15 II. Providing a minimum compensation standard for TNC drivers would benefit the
16 Seattle economy by significantly increasing TNC driver earnings and thereby boosting consumer
17 spending in Seattle and benefiting the economy overall.

18 JJ. Establishing minimum compensation standards and transparency requirements will
19 help ensure that the compensation that thousands of drivers who provide vital transportation
20 services in Seattle every day receive for their services is sufficient to alleviate undue financial
21 pressure to provide transportation in an unsafe manner by working longer hours than is safe,
22 skipping needed breaks, or operating vehicles at unsafe speeds in order to maximize the number

1 of trips completed or to ignore maintenance necessary to the safe and reliable operation of their
2 vehicles.

3 KK. TNC drivers who have the protection of minimum labor standards and transparency
4 requirements will be more likely to remain in their positions over time, and to devote more time
5 to their work as TNC drivers. Such experienced drivers will improve the safety and reliability of
6 the TNC services provided by the TNCs to passengers and thus reduce safety and reliability
7 problems created by frequent turnover in the TNC services industry.

8 Section 2. A new Chapter 14.33 is added to the Seattle Municipal Code as follows:

9 **CHAPTER 14.33 TRANSPORTATION NETWORK COMPANY DRIVER MINIMUM**
10 **COMPENSATION**

11 **14.33.010 Short title**

12 This Chapter 14.33 shall constitute the “Transportation Network Company Driver Minimum
13 Compensation Ordinance” and may be cited as such.

14 **14.33.015 Declaration of policy**

15 It is declared to be the policy of the City, in the exercise of its police powers for the protection of
16 the public health, safety, and general welfare, and for the maintenance of peace and good
17 government, to ensure that TNC drivers can perform their services in a safe and reliable manner,
18 and thereby promote the welfare of TNC drivers and the people who rely on such services to
19 meet their transportation needs. The role of the Office of Labor Standards is to enforce the
20 provisions of this Chapter 14.33 in furtherance of this policy.

21 **14.33.020 Definitions**

22 For the purposes of this Chapter 14.33:

1 “Adverse action” means reducing the rates of compensation to the TNC driver,
2 garnishing tips or gratuities, temporarily or permanently denying or limiting access to work,
3 incentives, or bonuses, offering less desirable work, demoting, terminating, deactivating,
4 changing a TNC driver’s status to provide TNC services from eligible to ineligible, putting a
5 TNC driver on hold status, failing to rehire a TNC driver after a seasonal interruption of work,
6 denying authorization to provide TNC services, threatening, penalizing, engaging in unfair
7 immigration-related practices, filing a false report with a government agency, or otherwise
8 discriminating against any person for any reason prohibited by Section 14.33.120. “Adverse
9 action” for a TNC driver may involve any aspect of TNC services, including compensation, work
10 hours, volume and frequency of trips assigned, responsibilities, or other material change in the
11 ability of a TNC driver to perform TNC services. “Adverse action” also includes any action that
12 would dissuade a reasonable TNC driver from exercising their rights under this Chapter 14.33;

13 “Agency” means the Office of Labor Standards and any division therein;

14 “Aggrieved party” means the TNC driver or other person who suffers tangible or
15 intangible harm due to the TNC or other person's violation of this Chapter 14.33;

16 “Application dispatch” means technology that allows consumers to directly request
17 dispatch of TNC drivers for trips and/or allows TNC drivers or TNCs to accept trip requests and
18 payments for trips via the internet using mobile interfaces such as, but not limited to, smartphone
19 and tablet applications;

20 “Available platform time” means the time a TNC driver is logged in to the driver
21 platform and available to receive a TNC dispatched trip prior to receiving a trip request from a
22 TNC. A TNC driver cannot simultaneously be engaged in available platform time, dispatch
23 platform time, and/or passenger platform time for the same TNC. For trips involving multiple

1 passengers picked up from different passenger pick-up locations, available platform time means
2 the period of time when a TNC driver is logged in to the driver platform prior to receiving the
3 first trip request from a TNC;

4 “City” means the City of Seattle;

5 “Compensation” means payment owed to a TNC driver by reason of providing TNC
6 services including, but not limited to the minimum payment for passenger platform time and
7 mileage under Section 14.33.050, incentives, and tips;

8 “Deactivation” means the blocking of a TNC driver’s access to the driver platform,
9 changing a TNC driver’s status from eligible to provide TNC services to ineligible, or other
10 material restriction in access to the driver platform that is effected by a TNC.

11 “Director” means the Director of the Office of Labor Standards or the Director's
12 designee;

13 “Dispatch location” means the location of the TNC driver at the time the TNC driver
14 accepts a trip request through the driver platform;

15 “Dispatch platform time” means the time a TNC driver spends traveling from dispatch
16 location to passenger pick-up location. Dispatch platform time ends when a passenger cancels a
17 trip, a driver cancels a trip, or the driver begins the trip in the driver platform. A TNC driver
18 cannot simultaneously be engaged in available platform time, dispatch platform time, and/or
19 passenger platform time for the same TNC. For trips involving multiple passengers picked up
20 from different passenger pick-up locations, dispatch platform time means the time a TNC driver
21 spends travelling from the first dispatch location to the first passenger pick-up location;

1 “Driver platform” means the driver-facing application dispatch system software or any
2 online-enabled application service, website, or system, used by a TNC driver, that enables the
3 prearrangement of passenger trips for compensation;

4 “Front pay” means the compensation the TNC driver would earn or would have earned if
5 reinstated to the TNC driver’s former position;

6 “Hearing Examiner” means the official appointed by the City Council and designated as
7 the Hearing Examiner under Chapter 3.02 or that person's designee (e.g., Deputy Hearing
8 Examiner or Hearing Examiner Pro Tem);

9 “Incentives” means a sum of money paid to a TNC driver upon completion of a task,
10 usually completing a certain amount of trips, a certain amount of consecutive trips, a trip subject
11 to a price multiplier or variable pricing policy, or some other provision of TNC services;

12 “Operating in the City” means, with respect to a TNC, providing application dispatch
13 services to any affiliated driver at any time for the transport of any passenger for compensation
14 from or to a point within the geographical confines of the City;

15 “Passenger drop-off location” means the location of a TNC driver’s vehicle when a TNC
16 driver ends the trip in the driver platform;

17 “Passenger mileage utilization rate” means the percentage of miles that TNC drivers
18 drive during passenger platform time relative to the total miles TNC drivers drive during
19 available platform time, dispatch platform time, and passenger platform time.

20 1. The passenger mileage utilization rate is calculated by dividing the total miles
21 TNC drivers drive during passenger platform time by the total miles TNC drivers drive during
22 available platform time, dispatch platform time, and passenger platform time.

1 2. If data on mileage driven by TNC drivers during available platform time,
2 dispatch platform time, or passenger platform time is not available or complete, the Director is
3 authorized to calculate the passenger mileage utilization rate pursuant to subsection 14.33.050.B;

4 “Passenger pick-up location” means the location of the TNC driver’s vehicle at the time
5 the TNC driver starts the trip in the driver platform;

6 “Passenger platform time” means the period of time commencing when the TNC driver
7 starts the trip in the driver platform until the time when the TNC driver ends the trip in the driver
8 platform. For trips involving multiple passengers picked up from different passenger pick-up
9 locations, passenger platform time means the period of time commencing when the TNC driver
10 starts the trip in the driver platform after the first passenger enters the TNC driver’s vehicle until
11 the time when the TNC driver ends the trip in the driver platform after the last passenger exits
12 the TNC driver’s vehicle at the end of the trip. A TNC driver cannot simultaneously be engaged
13 in available platform time, dispatch platform time, and/or passenger platform time for the same
14 TNC;

15 “Passenger platform time utilization rate” means the percentage of time that TNC drivers
16 spend during passenger platform time relative to the total of the time TNC drivers spend during
17 available platform time, dispatch platform time, and passenger platform time.

18 1. The passenger platform time utilization rate is calculated by dividing the total
19 amount of time that TNC drivers spend during passenger platform time by the total of the time
20 TNC drivers spend during available platform time, dispatch platform time, and passenger
21 platform time.

1 2. If data on available platform time, dispatch platform time, or passenger
2 platform time is not available or complete, the Director is authorized to calculate the passenger
3 platform time utilization rate pursuant to subsection 14.33.050.B;

4 “Per minute rate” means the per minute equivalent of the “hourly minimum wage”
5 established for Schedule 1 employers in Chapter 14.19. For example, in 2020 the “hourly
6 minimum wage” established for Schedule 1 employers in Chapter 14.19 is \$16.39 and the
7 resultant per minute rate is \$0.27;

8 “Per mile rate” means the per mile equivalent of the reasonable expenses necessary for a
9 TNC driver to provide TNC services;

10 “Rate of inflation” means 100 percent of the annual average growth rate of the bi-
11 monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and
12 Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the
13 percentage increase shall not be less than zero;

14 “Reasonable expenses” means (1) the per mile cost of operating a vehicle for purposes of
15 providing TNC services and (2) the non-mileage expenses incurred by TNC drivers to provide
16 TNC services. Reasonable expenses may include, but are not limited to:

- 17 1. Vehicle acquisition and financing costs;
- 18 2. Depreciation;
- 19 3. Lease payments;
- 20 4. Maintenance and repairs;
- 21 5. Vehicle cleaning;
- 22 6. Tires;
- 23 7. Gasoline (including all taxes thereon);

- 1 8. Oil;
- 2 9. Vehicle insurance;
- 3 10. License and vehicle registration fees;
- 4 11. Cell phone and cell phone service plans;
- 5 12. Cost of medical, dental, and vision insurance;
- 6 13. The amount of employer-side payroll taxes that TNC drivers must pay;
- 7 14. The amount of business taxes that TNC drivers must pay;
- 8 15. Business license fees that TNC drivers must pay;
- 9 16. Rest breaks; and
- 10 17. Any other cost or information the Director determines is necessary to further

11 the purposes of this Chapter 14.33;

12 “Respondent” means the TNC or any person who is alleged or found to have committed a
13 violation of this Chapter 14.33;

14 “Tips” means a verifiable sum to be presented by a passenger as a gift or gratuity in
15 recognition of some service performed for the passenger by the TNC driver receiving the tip;

16 “TNC services” means services related to the transportation of passengers through the
17 driver platform that are provided by a TNC driver while logged in to that driver platform,
18 including services provided during available platform time, dispatch platform time, and
19 passenger platform time;

20 “Transportation network company” or “TNC” means an organization, licensed or
21 required to be licensed under Chapter 6.310, operating in the City that offers prearranged
22 transportation services for compensation using an online-enabled application or platform, such as
23 an application dispatch system, to connect passengers with drivers using a “transportation

1 network company (TNC) endorsed vehicle,” as defined in Chapter 6.310. “Transportation
2 network company” includes any such entity or person acting directly or indirectly in the interest
3 of a transportation network company in relation to the transportation network company driver;

4 “Transportation network company driver” or “TNC driver” means a licensed for-hire
5 driver, as defined in Chapter 6.310, affiliated with and accepting trips from a licensed
6 transportation network company. For purposes of this Chapter 14.33, at any time that a driver is
7 logged into the driver platform, the driver is considered a TNC driver;

8 “TNC dispatched trip” or “trip” means the dispatch of a TNC driver to provide
9 transportation to a passenger in a TNC endorsed vehicle through the use of a TNC’s application
10 dispatch system. A trip is completed when the TNC driver ends the trip in the driver platform.

11 The term “TNC dispatched trip” or “trip” does not include transportation provided by taxicabs or
12 for-hire vehicles, as defined in Chapter 6.310;

13 “Written” or “writing” means a printed or printable communication in physical or
14 electronic format including a communication that is transmitted through email, text message or a
15 computer system, or is otherwise sent and maintained electronically, including via the driver
16 platform.

17 **14.33.030 TNC driver coverage**

18 A. A TNC driver is covered by this Chapter 14.33 if the TNC driver provides TNC
19 services within the geographic boundaries of the City for a TNC covered by this Chapter 14.33.

20 B. For a trip with a passenger pick-up location in the City, all minimum compensation
21 requirements under Section 14.33.050 apply, regardless of the passenger drop-off location.

1 C. For a trip with a passenger pick-up location outside the City, minimum compensation
2 under Section 14.33.050 is due only for the portion of passenger platform time and mileage that
3 occurs within the City.

4 **14.33.040 TNC coverage**

5 A. TNCs that report 200,000 or more rides that originate in the City per the most recent
6 quarterly report received by the City under Section 6.310.540 are covered under this Chapter
7 14.33.

8 B. Separate entities that form an integrated enterprise shall be considered a single TNC
9 under this Chapter 14.33. Separate entities will be considered an integrated enterprise and a
10 single TNC under this Chapter 14.33 where a separate entity controls the operation of another
11 entity. The factors to consider include, but are not limited to:

- 12 1. Degree of interrelation between the operations of multiple entities;
- 13 2. Degree to which the entities share common management;
- 14 3. Centralized control of labor relations;
- 15 4. Degree of common ownership or financial control over the entities; and
- 16 5. Use of a common brand, trade, business, or operating name.

17 **14.33.050 Minimum compensation**

18 For each TNC dispatched trip, a TNC shall compensate TNC drivers by providing at least the
19 equivalent of: (1) the minimum per minute amount for passenger platform time under subsection
20 14.33.050.A.1 plus the minimum per-mile amount for passenger platform time under subsection
21 14.33.050.A.2; or (2) the minimum per trip amount for each TNC dispatched trip under
22 subsection 14.33.050.A.4, whichever amount is greater.

23 A. Minimum payment

1 1. Per minute amount. For each minute of passenger platform time on each trip, a
2 TNC shall compensate TNC drivers at least the equivalent of the per minute rate divided by the
3 passenger platform time utilization rate, except that in the first three months after the effective
4 date of this section, the per minute amount shall be phased in according to a rate schedule filed
5 by the Agency with the City Clerk. The minimum per minute amount during the three-month
6 phase in period shall not fall below \$0.32 per minute.

7 a. Passenger platform time utilization rate. Subject to the provisions in
8 subsection 14.33.050.B, the passenger platform utilization rate is 0.492.

9 2. Per mile amount. For each mile driven during passenger platform time on each
10 trip, a TNC shall compensate TNC drivers at least the equivalent of the per mile rate divided by
11 the passenger mileage utilization rate. Subject to the provisions in subsection 14.33.050.B,

12 a. The per mile amount is \$1.33.

13 b. The per mile rate is \$0.830.

14 c. The passenger mileage utilization rate is 0.622.

15 3. The calculations described in this subsection 14.33.050.A are expressed in
16 equation form as:

17
$$\left(\frac{\text{Per minute rate} \times \text{Passenger Platform Time Minutes}}{\text{Passenger Platform Time Utilization Rate}}\right) + \left(\frac{\text{Per mile rate} \times \text{Passenger Platform Time Miles}}{\text{Passenger Mileage Utilization Rate}}\right) = \text{Minimum Payment Per Trip}$$

18 4. Per trip amount. For each TNC dispatched trip, a TNC shall compensate TNC
19 drivers a minimum per trip amount of at least \$5.

20 a. For the purposes of this subsection 14.33.050.A.4, “each TNC
21 dispatched trip” includes but is not limited to a trip in which the TNC driver transports the
22 passenger to the passenger’s desired drop-off location, a trip cancelled by a passenger or the
23 TNC unless the TNC refunds the passenger cancellation fee due to driver conduct, and a trip

1 where the passenger does not appear at the passenger pick-up location. For trips involving
2 multiple passengers picked-up from different locations, the minimum per trip amount applies to
3 the period of time commencing when the TNC driver starts the trip in the driver platform after
4 the first passenger enters the TNC driver’s vehicle until the time when the TNC driver ends the
5 trip in the driver platform after the last passenger exits the TNC driver’s vehicle at the end of the
6 trip. “Each TNC dispatched trip” does not include a trip cancelled by the TNC driver.

7 b. Effective January 1, 2022, the minimum per trip amount paid to a TNC
8 driver shall be increased on a percentage basis to reflect the rate of inflation and calculated to the
9 nearest cent on January 1 of each year thereafter. The Agency shall determine the amount and
10 file a schedule of such amount with the City Clerk.

11 B. Adjustment of the per mile rate, passenger platform time utilization rate, and the
12 passenger mileage utilization rate

13 1. Adjustment of the per mile rate. Beginning one year after the effective date of
14 this section, and thereafter on January 1 of each year, the Director by rule may adjust the per-
15 mile rate. In adjusting the per-mile rate each year, the Director shall consider the best available
16 sources of data, which may include, but are not limited to: TNC driver surveys, data provided by
17 TNCs, data provided by TNC drivers, data provided by passengers, data from other jurisdictions,
18 data available through academic, policy, or community based organizations, and stakeholder
19 interviews. The Director shall base the adjustment on an assessment of relevant factors or costs
20 during the 12-month period ending in August. Provided however, that this adjustment shall not
21 result in reduction of the per mile rate below \$0.830. The Director may consider the following
22 non-exhaustive factors or costs:

23 a. Vehicle acquisition and financing costs;

- 1 b. Depreciation;
- 2 c. Lease payments;
- 3 d. Maintenance and repairs;
- 4 e. Vehicle cleaning;
- 5 f. Tires;
- 6 g. Gasoline (including all taxes thereon);
- 7 h. Oil;
- 8 i. Vehicle Insurance;
- 9 j. License and vehicle registration fees;
- 10 k. Cell phone and cell phone plans;
- 11 l. Cost of medical, dental, and vision insurance;
- 12 m. The amount of employer-side payroll taxes that TNC drivers must pay;
- 13 n. The amount of businesses taxes that TNC drivers must pay;
- 14 o. Business license fees that TNC drivers must pay;
- 15 p. Rest breaks; and
- 16 q. Any other cost or information the Director determines is necessary to
- 17 further the purposes of this Chapter 14.33.

18 If the Director does not adjust the per-mile rate in any given year, the per-mile
19 rate shall be increased on a percentage basis to reflect the rate of inflation and calculated to the
20 nearest cent on January 1 of each year. The Agency shall determine the amount and file a
21 schedule of such amount with the City Clerk.

22 2. Adjustment of the passenger platform time utilization rate and the passenger
23 mileage utilization rate. Subject to the provisions in subsection 14.33.030.B.2.a, the Director by

1 rule may adjust the passenger platform time utilization rate or the passenger mileage utilization
2 rate. The Agency shall provide notice to the public no less than three months before the effective
3 date of any adjustment under this subsection 14.33.050.B.2. The purpose of any adjustment is to
4 reflect changes in the percentage of time that TNC drivers spend in passenger platform time
5 relative to the total time that TNC drivers spend in available platform time, dispatch platform
6 time and passenger platform time or the percentage of miles TNC drivers drive during passenger
7 platform time relative to the total miles TNC drivers drive during available platform time,
8 dispatch platform time, and passenger platform time. The Director shall have discretion to
9 determine a passenger platform time utilization rate or a passenger mileage utilization rate on an
10 industry-wide basis or for each TNC covered by this Chapter 14.33.

11 a. The Director shall not adjust the passenger platform time utilization rate
12 or the passenger mileage utilization rate until three years after the effective date of this
13 ordinance.

14 b. The Director may choose not to adjust the passenger platform time
15 utilization rate or the passenger mileage utilization rate for any time period that the Director
16 determines is necessary to further the purposes of this Chapter 14.33, including but not limited to
17 while the combined total trips reported by all TNCs that originate in the City covered by this
18 Chapter 14.33 is less than 3,000,000 per the most recent quarterly report received by the City
19 under Section 6.310.540.

20 c. Prior to beginning any assessment period on which the Agency will
21 base a passenger platform time utilization rate or the passenger mileage utilization rate
22 adjustment, the Agency shall provide reasonable notice to the TNCs and other stakeholders of
23 the date on which the assessment period begins.

1 d. In adjusting the passenger platform time utilization rate or the passenger
2 mileage utilization rate, the Director may consider the following sources of information:

3 1) The best available sources of data, which may include, but are
4 not limited to: TNC driver surveys, data provided by TNCs, data provided by TNC drivers, data
5 provided by passengers, data from other jurisdictions, data available through academic, policy, or
6 community based organizations, and stakeholder interviews;

7 2) Input from stakeholders on the method and time period for
8 assessment or adjustment of the passenger platform time utilization rate or the passenger mileage
9 utilization rate; and

10 3) Any other information the Director determines is necessary to
11 further the purposes of this Chapter 14.33.

12 e. The Director shall base any adjustment to the passenger platform time
13 utilization rate or passenger mileage utilization rate on an assessment of relevant factors during
14 an assessment period prior to the date of adjustment. The assessment period for the first
15 adjustment of the passenger platform time utilization rate or passenger mileage utilization rate
16 shall be 12 months in duration. The assessment period for any subsequent adjustment to the
17 passenger platform time utilization rate or passenger mileage utilization rate shall be up to 12
18 months in duration. The Director may consider the following factors for the assessment:

19 1) The average and median amount of available platform time,
20 dispatch platform time, and passenger platform time for TNC drivers;

21 2) The average and median mileage driven by TNC drivers during
22 available platform time, dispatch platform time, and passenger platform time;

1 A. A TNC shall pay to its TNC drivers all tips and gratuities. Tips paid to a TNC driver
2 are in addition to, and may not count towards, the TNC driver’s minimum compensation under
3 Section 14.33.050.

4 B. Incentives may count towards the TNC’s minimum compensation requirements under
5 Section 14.33.050 only for the particular trip in which the incentives are earned.

6 **14.33.070 Provision of personal protective equipment and disinfecting supplies**

7 A. While the civil emergency proclaimed by Mayor Durkan on March 3, 2020 remains in
8 effect, each TNC covered by this Chapter 14.33 must provide to each TNC driver, at the TNC’s
9 expense, a reasonable amount of non-medical grade face coverings, gloves, hand sanitizing
10 agents, and disinfecting supplies, such as disinfecting wipes or sprays. A reasonable amount of
11 supplies may be considered as those necessary to meet any TNC industry-specific health and
12 safety requirements promulgated by local, state, or federal agencies. At a minimum shall include,
13 but not be limited to, the following supplies or their equivalent: one disposable mask for every
14 ten trips; one pair of gloves for every ten trips; one 8-ounce bottle of hand sanitizer for every 100
15 trips; and one 32-ounce bottle of disinfecting spray for every 200 trips.

16 B. If a TNC determines that directly providing all TNC drivers with the supplies
17 referenced in subsection 14.33.070.A is infeasible, the TNC may, in addition to or in lieu of
18 direct delivery, allow for:

19 1. TNC drivers to pick up the items at one or more centralized location(s), which
20 shall be open for pickups some evening and weekend hours; and/or

21 2. TNC drivers to be reimbursed for the reasonable cost of the items.

1 C. Each TNC covered by this Chapter 14.33 shall provide each TNC driver with written
2 notice of the TNC's policy and procedure for meeting the requirements of this Section

3 14.33.070. The policy and procedure shall include:

- 4 1. The amount of supplies available to each TNC driver;
- 5 2. The method of distribution of such supplies;
- 6 3. If supplies will not be delivered directly to TNC drivers, the location where
7 such supplies are available for pickup and the hours during which the location is open for pickup;
8 and

9 4. If supplies will not be provided to TNC drivers, the reasonable cost of the items
10 to be reimbursed to a TNC driver.

11 **14.33.100 Notice and posting**

12 A. TNCs shall provide each TNC driver with a written notice of rights established by this
13 Chapter 14.33. The Agency may create and distribute a model notice of rights in English and
14 other languages. However, TNCs are responsible for providing TNC drivers with the notice of
15 rights required by this subsection 14.33.100.A, in a form and manner sufficient to inform TNC
16 drivers of their rights under this Chapter 14.33, regardless of whether the Agency has created and
17 distributed a model notice of rights. The notice of rights shall provide information on:

- 18 1. The right to the applicable per minute rate and per mile rate guaranteed by this
19 Chapter 14.33;
- 20 2. The right to be protected from retaliation for exercising in good faith the rights
21 protected by this Chapter 14.33; and
- 22 3. The right to file a complaint with the Agency or bring a civil action for
23 violation of the requirements of this Chapter 14.33, including a TNC or any person's failure to

1 pay the minimum per minute rate or per mile rate, and a TNC or other person's retaliation against
2 a TNC driver or other person for engaging in an activity protected by this Chapter 14.33.

3 B. TNCs shall provide the notice of rights required by subsection 14.33.100.A in an
4 electronic format that is readily accessible to the TNC driver. The notice of rights shall be made
5 available to the TNC driver via smartphone application or online web portal, in English and any
6 language that the TNC knows or has reason to know is the primary language of the TNC driver.
7 The Director may issue rules governing the form and content of the notice of rights, the manner
8 of its distribution, and required languages for its translation.

9 C. Within 24 hours of each trip completion, a TNC must transmit an electronic receipt to
10 the TNC driver that contains the following information for each unique trip, or portion of a
11 unique trip, covered by this Chapter 14.33:

12 1. The total amount of passenger platform time;
13 2. The total mileage driven during passenger platform time;
14 3. Passenger pick-up location and passenger drop-off location. The Director shall
15 issue rules regarding the precision with which a TNC must describe the passenger pick-up
16 location and passenger drop-off location and may consider methods to protect the privacy of
17 passengers, to the maximum extent permitted by applicable laws. Prior to the issuance of such
18 rules, a TNC's current practice of describing the passenger pick-up location and passenger drop-
19 off location as of the effective date of this section shall be deemed to comply with this subsection
20 14.33.100.C.3;

21 4. Passenger fare;

1 5. Rate or rates of pay, including but not limited to the rate per minute, rate per
2 mile, percentage of passenger fare, and any applicable price multiplier or variable pricing policy
3 in effect for the trip;

4 6. Tip compensation;

5 7. Gross payment;

6 8. Net payment after deductions, fees, tolls, surcharges, lease fees, or other
7 charges;

8 9. Itemized deductions or fees, including any toll, surcharge, commission, lease
9 fees, and other charges; and

10 10. Pursuant to rules issued by the Director, other information that is material and
11 necessary to effectuate the terms of this Chapter 14.33.

12 D. On a weekly basis, the TNC shall provide written notice to the TNC driver that
13 contains the following information for trips, or a portion of a trip, that is covered by this Chapter
14 14.33 and which occurred in the prior week:

15 1. The TNC driver's total passenger platform time;

16 2. Total mileage driven by the TNC driver during passenger platform time;

17 3. Total amount of passenger fares;

18 4. The TNC driver's total tip compensation;

19 5. The TNC driver's gross payment, itemized by:

20 a. Rate per minute;

21 b. Rate per mile; and

1 c. Any other method used to calculate pay including, but not limited to,
2 base pay, percentage of passenger fare, or any applicable price multiplier or variable pricing
3 policy in effect for the trip.

4 6. The TNC driver's net payment after deductions, fees, tolls, surcharges, lease
5 fees, or other charges;

6 7. Itemized deductions or fees, including all tolls, surcharges, commissions, lease
7 fees, and other charges, from the TNC driver's payment; and

8 8. Pursuant to rules issued by the Director, other information that is material and
9 necessary to effectuate the terms of this Chapter 14.33.

10 E. Within 24 hours of a trip's completion, a TNC must transmit an electronic receipt to
11 the passenger on behalf of the TNC driver that lists:

12 1. The date and time of the trip;

13 2. The passenger pick-up and passenger drop-off locations for the trip. The
14 Director shall issue rules regarding the precision with which a TNC must describe the passenger
15 pick-up location and passenger drop-off location and may consider methods to protect the
16 privacy of passengers, to the maximum extent permitted by applicable laws. Prior to the issuance
17 of such rules, a TNC's current practice of describing the passenger pick-up location and
18 passenger drop-off location as of the effective date of this section shall be deemed to comply
19 with this subsection 14.33.100.E.2;

20 3. The total duration and distance of the trip;

21 4. Driver first name;

22 5. The total fare paid, itemizing all charges and fees;

1 6. Compensation paid to the driver with passenger-paid tips separately itemized;
2 and

3 7. Pursuant to rules issued by the Director, other information that is material and
4 necessary to effectuate the terms of this Chapter 14.33.

5 **14.33.110 TNC records**

6 A. Each TNC shall retain for three years records that document compliance with this
7 Chapter 14.33 including:

8 1. Records of compensation paid to TNC drivers pursuant to Section 14.33.050,
9 including records of payment of the per-minute amount pursuant to subsection 14.33.050.A.1,
10 payment of the per-mile amount pursuant to subsection 14.33.050.A.2, payment of the minimum
11 per trip amount pursuant to subsection 14.33.050.A.4, and any tip or incentive compensation
12 pursuant to Section 14.33.060;

13 2. Records of time spent during available platform time, dispatch platform time,
14 and passenger platform time, including but not limited to the duration that each TNC driver is
15 logged in to the driver platform, the amount of time each TNC driver spends travelling from
16 dispatch location to passenger pickup location for each trip, and amount of time each TNC driver
17 spends travelling from passenger pickup location to passenger drop-off location for each trip.

18 3. Records of TNC driver mileage driven during available platform time, dispatch
19 platform time, and passenger platform time, including but not limited to the date, time, and
20 location of dispatch location, passenger pickup location, and passenger drop-off location for each
21 trip. The Director is authorized to issue rules regarding the precision with which a TNC must
22 describe the dispatch location, passenger pick-up location, and passenger drop-off location;

1 4. Written per-trip driver receipts and weekly statements of trip information
2 pursuant to subsections 14.33.100.C and 14.33.100.D;

3 5. Written per-trip passenger receipts pursuant to subsection 14.33.100.E; and

4 6. Pursuant to rules issued by the Director, other records that are material and
5 necessary to effectuate the terms of this Chapter 14.33.

6 B. If a TNC fails to retain adequate records required under subsection 14.33.110.A,
7 including records required by Director's rule pursuant to subsection 14.33.110.A.6, there shall be
8 a presumption, rebuttable by clear and convincing evidence, that the TNC violated this Chapter
9 14.33 for the periods and for each TNC driver for whom records were not retained.

10 C. Respondents in any case closed by the Agency shall allow the Office of City Auditor
11 access to such records to permit the Office of City Auditor to evaluate the Agency's enforcement
12 efforts. Before requesting records from such a respondent, the Office of City Auditor shall first
13 consult the Agency's respondent records on file and determine if additional records are
14 necessary. The City Auditor may apply by affidavit or declaration in the form allowed under
15 RCW 9A.72.085 to the Hearing Examiner for the issuance of subpoenas under this subsection
16 14.33.110.C. The Hearing Examiner shall issue such subpoenas upon a showing that the records
17 are required to fulfill the purposes of this subsection 14.33.110.C.

18 **14.33.113 Production of records**

19 A. The TNC shall routinely and affirmatively transmit to the Agency such records as
20 required by rules issued by the Director. The Director shall have the authority to require
21 aggregated or disaggregated records. Such records may include, but are not limited to:

22 1. The length and duration of each trip;

- 1 2. The amount of time spent and miles travelled in available platform time,
2 dispatch platform time, and passenger platform time;
- 3 3. Per-trip TNC driver compensation;
- 4 4. For each trip, the date, time, and location of dispatch, passenger pickup and
5 passenger drop-off;
- 6 5. Unique vehicle and driver identifier;
- 7 6. Passenger fares for each trip; and
- 8 7. Any other records that the Director determines are necessary to effectuate the
9 purposes of this Chapter 14.33.

10 B. The Director shall issue rules governing the submission format, security, and privacy
11 protocols relating to the submission of TNC records, to the extent permitted by law.

12 **14.33.116 Rulemaking authority**

13 The Director is authorized to enforce and administer this Chapter 14.33. The Director shall
14 exercise all responsibilities under this Chapter 14.33 pursuant to rules and regulations developed
15 under Chapter 3.02. The Director is authorized to promulgate, revise, or rescind rules and
16 regulations deemed necessary, appropriate, or convenient to administer, evaluate and enforce the
17 provisions of this Chapter 14.33, providing affected entities with due process of law and in
18 conformity with the intent and purpose of this Chapter 14.33.

19 **14.33.120 Retaliation prohibited**

20 A. No TNC or any other person shall interfere with, restrain, deny, or attempt to deny the
21 exercise of any right protected under this Chapter 14.33.

22 B. No TNC or any other person shall take any adverse action against any person because
23 the person has exercised in good faith the rights protected under this Chapter 14.33. Such rights

1 include but are not limited to the right to make inquiries about the rights protected under this
2 Chapter 14.33; the right to inform others about their rights under this Chapter 14.33; the right to
3 inform the person's TNC, union, or similar organization, and/or the person's legal counsel or any
4 other person about an alleged violation of this Chapter 14.33; the right to file an oral or written
5 complaint with the Agency, or bring a civil action for an alleged violation of this Chapter 14.33;
6 the right to cooperate with the Agency in its investigations of this Chapter 14.33; the right to
7 testify in a proceeding under or related to this Chapter 14.33; the right to refuse to participate in
8 an activity that would result in a violation of city, state or federal law; and the right to oppose
9 any policy, practice, or act that is unlawful under this Chapter 14.33.

10 C. No TNC or any other person shall communicate to a person exercising rights protected
11 under this Section 14.33.120, directly or indirectly, the willingness to inform a government
12 employee or contracted organization that the person is not lawfully in the United States, or to
13 report, or to make an implied or express assertion of a willingness to report, suspected
14 citizenship or immigration status of a TNC driver or a family member of the TNC driver to a
15 federal, state, or local agency because the TNC driver has exercised a right under this Chapter
16 14.33.

17 D. It shall be considered a rebuttable presumption of retaliation if the TNC or any other
18 person takes an adverse action against a person within 90 calendar days of the person's exercise
19 of rights protected in this Section 14.33.120. The TNC may rebut the presumption with clear and
20 convincing evidence that the adverse action was taken for a permissible purpose.

21 E. Proof of retaliation under this Section 14.33.120 shall be sufficient upon a showing
22 that the TNC or any other person has taken an adverse action against a person and the person's
23 exercise of rights protected in Section 14.33.120 was a motivating factor in the adverse action,

1 unless the TNC can prove that the action would have been taken in the absence of such protected
2 activity.

3 F. The protections afforded under this Section 14.33.120 shall apply to any person who
4 mistakenly but in good faith alleges violations of this Chapter 14.33.

5 G. A complaint or other communication by any person triggers the protections of this
6 Section 14.33.120 regardless of whether the complaint or communication is in writing or makes
7 explicit reference to this Chapter 14.33.

8 **14.33.130 Enforcement power and duties**

9 Subject to the provisions of this Section 14.33.130, the Agency shall have the power to
10 investigate violations of this Chapter 14.33, as defined herein, and shall have such powers and
11 duties in the performance of these functions as are defined in this Chapter 14.33 and otherwise
12 necessary and proper in the performance of the same and provided for by law.

13 **14.33.140 Violation**

14 The failure of any respondent to comply with any requirement imposed on the respondent under
15 this Chapter 14.33 is a violation.

16 **14.33.150 Investigation**

17 A. Subject to the provisions of this subsection 14.33.150.A, the Agency shall have the
18 power to investigate any violations of this Chapter 14.33 by any respondent. The Agency may
19 initiate an investigation pursuant to rules issued by the Director including, but not limited to:

20 1. Situations when the Director has reason to believe that a violation has occurred
21 or will occur, or when circumstances show that violations are likely to occur within a business or
22 class of businesses because the workforce contains significant numbers of workers who are

1 vulnerable to violations of this Chapter 14.33 or the workforce is unlikely to volunteer
2 information regarding such violations; and

3 2. Following the receipt by the Agency of a report or complaint filed by a TNC
4 driver or any other person.

5 B. A TNC driver or other person may report to the Agency any suspected violation of this
6 Chapter 14.33. The Agency shall encourage reporting pursuant to this Section 14.33.150 by
7 taking the following measures:

8 1. The Agency shall keep confidential, to the maximum extent permitted by
9 applicable laws, the name and other identifying information of the TNC driver or person
10 reporting the violation. However, with the authorization of such person, the Agency may disclose
11 the TNC driver's or person's name and identifying information as necessary to enforce this
12 Chapter 14.33 or for other appropriate purposes.

13 2. The Agency may require the TNC to post or otherwise notify TNC drivers that
14 the Agency is conducting an investigation, in a form, place, and manner designated by the
15 Agency. The TNC may provide the form on an individual basis in physical or electronic format
16 that is reasonably conspicuous and accessible in in English and other languages as provided by
17 rules issued by the Director.

18 3. The Agency may certify the eligibility of eligible persons for "U" visas under
19 the provisions of 8 U.S.C. § 1184(p) and 8 U.S.C. § 1101(a)(15)(U). The certification is subject
20 to applicable federal law and regulations, and rules issued by the Director.

21 C. The Agency's investigation must commence within three years of the alleged
22 violation. To the extent permitted by law, the applicable statute of limitations for civil actions is
23 tolled during any investigation under this Chapter 14.33 and any administrative enforcement

1 proceeding under this Chapter 14.33 based upon the same facts. For purposes of this Chapter
2 14.33:

3 1. The Agency's investigation begins on the earlier date of when the Agency
4 receives a complaint from a person under this Chapter 14.33, or when the Agency provides
5 notice to the respondent that an investigation has commenced under this Chapter 14.33.

6 2. The Agency's investigation ends when the Agency issues a final order
7 concluding the matter and any appeals have been exhausted; the time to file any appeal has
8 expired; or the Agency notifies the respondent in writing that the investigation has been
9 otherwise resolved.

10 D. The Agency's investigation shall be conducted in an objective and impartial manner.

11 E. The Director may apply by affidavit or declaration in the form allowed under RCW
12 9A.72.085 to the Hearing Examiner for the issuance of subpoenas requiring the TNC to produce
13 the records identified in Section 14.33.110, or for the attendance and testimony of witnesses, or
14 for the production of documents required to be retained under Section 14.33.110, or any other
15 document relevant to the issue of whether any TNC driver or group of TNC drivers has been or
16 is afforded proper amounts of compensation under this Chapter 14.33 and/or to whether the TNC
17 has violated any provision of this Chapter 14.33. The Hearing Examiner shall conduct the review
18 without hearing as soon as practicable and shall issue subpoenas upon a showing that there is
19 reason to believe that a violation has occurred if a complaint has been filed with the Agency, or
20 that circumstances show that violations are likely to occur within a business or class of
21 businesses because the workforce contains significant numbers of workers who are vulnerable to
22 violations of this Chapter 14.33 or the workforce is unlikely to volunteer information regarding
23 such violations.

1 F. A TNC that fails to comply with the terms of any subpoena issued under subsection
2 14.33.150.E in an investigation by the Agency under this Chapter 14.33 prior to the issuance of a
3 Director's Order issued pursuant to subsection 14.33.160.C may not use such records in any
4 appeal to challenge the correctness of any determination by the Agency of liability, damages
5 owed, or penalties assessed.

6 G. In addition to other remedies, the Director may refer any subpoena issued under
7 subsection 14.33.150.E to the City Attorney to seek a court order to enforce any subpoena.

8 H. Where the Director has reason to believe that a violation has occurred, the Director
9 may order any appropriate temporary or interim relief to mitigate the violation or maintain the
10 status quo pending completion of a full investigation or hearing, including but not limited to a
11 deposit of funds or bond sufficient to satisfy a good-faith estimate of compensation, interest,
12 damages and penalties due. A respondent may appeal any such order in accordance with Section
13 14.33.180.

14 **14.33.160 Findings of fact and determination**

15 A. Except when there is an agreed upon settlement, the Director shall issue a written
16 determination with findings of fact resulting from the investigation and statement of whether a
17 violation of this Chapter 14.33 has or has not occurred based on a preponderance of the evidence
18 before the Director.

19 B. If the Director determines that there is no violation of this Chapter 14.33, the Director
20 shall issue a "Determination of No Violation" with notice of a TNC driver's or other person's
21 right to appeal the decision, subject to the rules of the Director.

1 C. If the Director determines that a violation of this Chapter 14.33 has occurred, the
2 Director shall issue a "Director's Order" that shall include a notice of violation identifying the
3 violation or violations.

4 1. The Director's Order shall state with specificity the amounts due under this
5 Chapter 14.33 for each violation, including payment of unpaid compensation, liquidated
6 damages, civil penalties, penalties payable to aggrieved parties, and interest pursuant to Section
7 14.33.170.

8 2. The Director's Order may specify that civil penalties due to the Agency can be
9 mitigated for respondent's timely payment of remedy due to an aggrieved party under subsection
10 14.33.170.A.4.

11 3. The Director's Order may specify that civil penalties and fines are due to the
12 aggrieved party rather than due to the Agency.

13 4. The Director's Order may direct the respondent to take such corrective action as
14 is necessary to comply with the requirements of this Chapter 14.33, including, but not limited to,
15 monitored compliance for a reasonable time period.

16 5. The Director's Order shall include notice of the respondent's right to appeal the
17 decision, pursuant to Section 14.33.180.

18 **14.33.170 Remedies**

19 A. The payment of unpaid compensation, liquidated damages, civil penalties, penalties
20 payable to aggrieved parties, and interest provided under this Chapter 14.33 are cumulative and
21 are not intended to be exclusive of any other available remedies, penalties, and procedures.

22 1. The amounts of all civil penalties and penalties payable to aggrieved parties
23 contained in this Section 14.33.170 shall be increased annually to reflect the rate of inflation and

1 calculated to the nearest cent on January 1 of each year. The Agency shall determine the amounts
2 and file a schedule of such amounts with the City Clerk.

3 2. If a violation is ongoing when the Agency receives a complaint or opens an
4 investigation, the Director may order payment of unpaid compensation plus interest that accrues
5 after receipt of the complaint or after the investigation opens and before the date of the Director's
6 Order.

7 3. Interest shall accrue from the date the unpaid compensation was first due at 12
8 percent annum, or the maximum rate permitted under RCW 19.52.020.

9 4. If there is a remedy due to an aggrieved party, the Director may waive the total
10 amount of civil penalties due to the Agency if the Director determines that the respondent paid
11 the full remedy due to the aggrieved party within ten days of service of the Director's Order. The
12 Director may waive half the amount of civil penalties due to the Agency if the Director
13 determines that the respondent paid the full remedy due to the aggrieved party within 15 days of
14 service of the Director's Order. The Director shall not waive any amount of civil penalties due to
15 the Agency if the Director determines that the respondent has not paid the full remedy due to the
16 aggrieved party after 15 days of service of the Director's Order.

17 5. When determining the amount of liquidated damages, civil penalties, and
18 penalties payable to aggrieved parties due under this Section 14.33.170, for a settlement
19 agreement or Director's Order, including but not limited to the mitigation of civil penalties due to
20 the Agency for timely payment of remedy due to an aggrieved party under subsection
21 14.33.170.A.4, the Director shall consider:

22 a. The total amount of unpaid compensation, liquidated damages,
23 penalties, and interest due;

- b. The nature and persistence of the violations;
- c. The extent of the respondent's culpability;
- d. The substantive or technical nature of the violations;
- e. The size, revenue, and human resources capacity of the respondent;
- f. The circumstances of each situation;
- g. The amounts of penalties in similar situations; and
- h. Other factors pursuant to rules issued by the Director.

B. A respondent found to be in violation of this Chapter 14.33 shall be liable for full payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of this Chapter 14.33, and other equitable relief. Where the precise amount of unpaid compensation cannot be determined due to a respondent's failure to produce records, or where a respondent produces records in a manner or form which makes timely determination of the amount of unpaid compensation impracticable, the Director may designate an amount for unpaid compensation in a minimum amount of \$200 for the Director may assess unpaid compensation in an amount to be determined by rules issued by the Director in favor of the aggrieved party for each week that each violation occurred or continued. For a first violation of this Chapter 14.33, the Director may assess liquidated damages in an additional amount of up to twice the unpaid compensation.

1. For subsequent violations of this Chapter 14.33, the Director shall assess an amount of liquidated damages in an additional amount of twice the unpaid compensation.

2. For purposes of establishing a first and subsequent violation for this Section 14.33.170, the violation must have occurred within ten years of the settlement agreement or Director's Order.

1 C. A respondent found to be in violation of this Chapter 14.33 for retaliation under
2 Section 14.33.120 shall be subject to any appropriate relief at law or equity including, but not
3 limited to reinstatement of the aggrieved party, front pay in lieu of reinstatement with full
4 payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of
5 this Chapter 14.33, and liquidated damages in an additional amount of up to twice the unpaid
6 compensation. The Director also shall order the imposition of a penalty payable to the aggrieved
7 party of up to \$5,565.10.

8 D. A respondent who willfully violates the notice and posting requirements of subsection
9 14.33.100.B shall be subject to a civil penalty of \$834.97 for the first violation and \$1,112.60 for
10 subsequent violations.

11 E. A respondent who willfully hinders, prevents, impedes, or interferes with the Director
12 or Hearing Examiner in the performance of their duties under this Chapter 14.33 shall be subject
13 to a civil penalty of not less than \$1,112.60 and not more than \$5,565.10.

14 F. A respondent found to be in violation of this Chapter 14.33 shall be subject to civil
15 penalties. Pursuant to subsection 14.33.160.C.3, the Director may specify that civil penalties are
16 due to the aggrieved party rather than due to the Agency.

17 1. For a first violation of this Chapter 14.33, the Director may assess a civil
18 penalty of up to \$556.30 per aggrieved party.

19 2. For a second violation of this Chapter 14.33, the Director shall assess a civil
20 penalty of up to \$1,112.60 per aggrieved party, or an amount equal to ten percent of the total
21 amount of unpaid compensation, whichever is greater.

22 3. For a third or any subsequent violation of this Chapter 14.33, the Director shall
23 assess a civil penalty of up to \$5,565.10 per aggrieved party, or an amount equal to ten percent of

1 the total amount of unpaid compensation, whichever is greater. The maximum civil penalty for a
2 violation of this Chapter 14.33 shall be \$22,259.36 per aggrieved party, or an amount equal to
3 ten percent of the total amount of unpaid compensation, whichever is greater.

4 4. For purposes of this Section 14.33.170, a violation is a second, third, or
5 subsequent violation if the respondent has been a party to one, two, or more than two settlement
6 agreements, respectively, stipulating that a violation has occurred; and/or one, two, or more than
7 two Director's Orders, respectively, have issued against the respondent in the ten years preceding
8 the date of the violation; otherwise, it is a first violation.

9 G. The Director is authorized to assess fines and, pursuant to subsection 14.33.160.C.3,
10 may specify that the fines are due to the aggrieved party rather than due to the Agency. The
11 Director is authorized to assess fines as follows:

Violation	Fine
Failure to provide reasonable supplies under subsection 14.33.070.	\$556.30 per aggrieved party
Failure to provide TNC drivers with written notice of rights under subsection 14.33.100.B	\$556.30 per aggrieved party
Failure to provide TNC drivers with per-trip receipts or weekly statements under subsection 14.33.100.C	\$556.30 per aggrieved party
Failure to maintain compensation or trip records for three years under subsection 14.33.110.A and 14.33.110.B	\$556.30 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under Section 14.33.120	\$1,112.60 per aggrieved party
Failure to provide notice of investigation to TNC drivers under subsection 14.33.150.B.2	\$556.30 per aggrieved party
Failure to provide notice of failure to comply with final order to the public under subsection 14.33.210.A.1	\$556.30 per aggrieved party

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1 The fine amounts shall be increased cumulatively by 50 percent of the fine for each preceding
2 violation for each subsequent violation of the same provision by the same TNC or person within
3 a ten-year period. The maximum amount that may be imposed in fines in any one-year period for
4 each type of violation listed above is \$5,565.10 unless a fine for retaliation is issued, in which
5 case the maximum amount is \$22,259.36.

6 H. In addition to the unpaid compensation, penalties, fines, liquidated damages, and
7 interest, the Agency may assess against the respondent in favor of the City reasonable costs
8 incurred in enforcing this Chapter 14.33, including but not limited to reasonable attorneys' fees.

9 I. The TNC that is the subject of a settlement agreement stipulating that a violation shall
10 count for debarment, or final order for which all appeal rights have been exhausted shall not be
11 permitted to bid, or have a bid considered, on any City contract until such amounts due under the
12 final order have been paid in full to the Director. If the TNC is the subject of a final order two
13 times or more within a five-year period, the contractor or subcontractor shall not be allowed to
14 bid on any City contract for two years. This subsection 14.33.170.I shall be construed to provide
15 grounds for debarment separate from, and in addition to, those contained in Chapter 20.70 and
16 shall not be governed by that chapter, provided that nothing in this subsection 14.33.170.I shall
17 be construed to limit the application of Chapter 20.70. The Director shall notify the Director of
18 Finance and Administrative Services of all TNCs subject to debarment under this subsection
19 14.33.170.I.

20 **14.33.180 Appeal period and failure to respond**

21 A. A TNC driver or other person who claims an injury as a result of an alleged violation
22 of this Chapter 14.33 may appeal the Determination of No Violation Shown, pursuant to the
23 rules of the Director.

1 B. A respondent may appeal the Director's Order, including all remedies issued pursuant
2 to Section 14.33.170, by requesting a contested hearing before the Hearing Examiner in writing
3 within 15 days of service of the Director's Order. If a respondent fails to appeal the Director's
4 Order within 15 days of service, the Director's Order shall be final. If the last day of the appeal
5 period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run
6 until 5 p.m. on the next business day.

7 **14.33.190 Appeal procedure and failure to appear**

8 A. Contested hearings shall be conducted pursuant to the procedures for hearing
9 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for
10 hearing contested cases. The review shall be conducted de novo and the Director shall have the
11 burden of proof by a preponderance of the evidence before the Hearing Examiner. Upon
12 establishing such proof, the remedies and penalties imposed by the Director shall be upheld
13 unless it is shown that the Director abused discretion. Failure to appear for a contested hearing
14 will result in an order being entered finding that the TNC committed the violation stated in the
15 Director's Order. For good cause shown and upon terms the Hearing Examiner deems just, the
16 Hearing Examiner may set aside an order entered upon failure to appear.

17 B. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying,
18 or reversing the Director's Order.

19 **14.33.200 Appeal from Hearing Examiner order**

20 A. The respondent may obtain judicial review of the decision of the Hearing Examiner by
21 applying for a Writ of Review in the King County Superior Court within 30 days from the date
22 of the decision in accordance with the procedure set forth in chapter 7.16 RCW, other applicable
23 law, and court rules.

1 B. The decision of the Hearing Examiner shall be final and conclusive unless review is
2 sought in compliance with this Section 14.33.200.

3 **14.33.210 Failure to comply with final order**

4 A. If a respondent fails to comply within 30 days of service of any settlement agreement
5 with the Agency, or with any final order issued by the Director or the Hearing Examiner for
6 which all appeal rights have been exhausted, the Agency may pursue, but is not limited to, the
7 following measures to secure compliance:

8 1. The Director may require the respondent to post public notice of the
9 respondent's failure to comply in a form and manner determined by the Agency.

10 2. The Director may refer the matter to a collection agency. The cost to the City
11 for the collection services will be assessed as costs, at the rate agreed to between the City and the
12 collection agency, and added to the amounts due.

13 3. The Director may refer the matter to the City Attorney for the filing of a civil
14 action in a court of competent jurisdiction to enforce such order or to collect amounts due. In the
15 alternative, the Director may seek to enforce a settlement agreement, Director's Order, or a final
16 order of the Hearing Examiner under Section 14.33.190.

17 4. The Director may request that the City's Department of Finance and
18 Administrative Services deny, suspend, refuse to renew, or revoke any business license held or
19 requested by the TNC or person until such time as the TNC complies with the remedy as defined
20 in the settlement agreement or final order. The City's Department of Finance and Administrative
21 Services shall have the authority to deny, refuse to renew, or revoke any business license in
22 accordance with this subsection 14.33.210.A.4.

1 B. No respondent that is the subject of a settlement agreement or final order issued under
2 this Chapter 14.33 shall quit business, sell out, exchange, convey, or otherwise dispose of the
3 respondent's business or stock of goods without first notifying the Agency and without first
4 notifying the respondent's successor of the amounts owed under the settlement agreement or final
5 order at least three business days prior to such transaction. At the time the respondent quits
6 business, or sells out, exchanges, or otherwise disposes of the respondent's business or stock of
7 goods, the full amount of the remedy, as defined in the settlement agreement or the final order
8 issued by the Director or the Hearing Examiner, shall become immediately due and payable. If
9 the amount due under the settlement agreement or final order is not paid by respondent within
10 ten days from the date of such sale, exchange, conveyance, or disposal, the successor shall
11 become liable for the payment of the amount due, provided that the successor has actual
12 knowledge of the order and the amounts due or has prompt, reasonable, and effective means of
13 accessing and verifying the fact and amount of the order and the amounts due. The successor
14 shall withhold from the purchase price a sum sufficient to pay the amount of the full remedy.
15 When the successor makes such payment, that payment shall be deemed a payment upon the
16 purchase price in the amount paid, and if such payment is greater in amount than the purchase
17 price the amount of the difference shall become a debt due such successor from the TNC.

18 **14.33.220 Debt owed The City of Seattle**

19 A. All monetary amounts due under a settlement agreement or Director's Order shall be a
20 debt owed to the City and may be collected in the same manner as any other debt in like amount,
21 which remedy shall be in addition to all other existing remedies, provided that amounts collected
22 by the City for unpaid compensation, liquidated damages, penalties payable to aggrieved parties,

1 or front pay shall be held in trust by the City for the aggrieved party and, once collected by the
2 City, shall be paid by the City to the aggrieved party.

3 B. If a respondent fails to appeal a Director's Order to the Hearing Examiner within the
4 time period set forth in subsection 14.33.180.B the Director's Order shall be final, and the
5 Director may petition the Seattle Municipal Court to enforce the Director's Order by entering
6 judgment in favor of the City finding that the respondent has failed to exhaust its administrative
7 remedies and that all amounts and relief contained in the order are due. The Director's Order
8 shall constitute prima facie evidence that a violation occurred and shall be admissible without
9 further evidentiary foundation. Any certifications or declarations authorized under RCW
10 9A.72.085 containing evidence that the respondent has failed to comply with the order or any
11 parts thereof, and is therefore in default, or that the respondent has failed to appeal the Director's
12 Order to the Hearing Examiner within the time period set forth in subsection 14.33.180.B and
13 therefore has failed to exhaust the respondent's administrative remedies, shall also be admissible
14 without further evidentiary foundation.

15 C. If a respondent fails to obtain judicial review of an order of the Hearing Examiner
16 within the time period set forth in subsection 14.33.200.A, the order of the Hearing Examiner
17 shall be final, and the Director may petition the Seattle Municipal Court to enforce the Director's
18 Order by entering judgment in favor of the City for all amounts and relief due under the order of
19 the Hearing Examiner. The order of the Hearing Examiner shall constitute conclusive evidence
20 that the violations contained therein occurred and shall be admissible without further evidentiary
21 foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing
22 evidence that the respondent has failed to comply with the order or any parts thereof, and is
23 therefore in default, or that the respondent has failed to avail itself of judicial review in

1 accordance with subsection 14.33.200.A, shall also be admissible without further evidentiary
2 foundation.

3 D. In considering matters brought under subsections 14.33.220.B and 14.33.220.C, the
4 Municipal Court may include within its judgment all terms, conditions, and remedies contained
5 in the Director's Order or the order of the Hearing Examiner, whichever is applicable, that are
6 consistent with the provisions of this Chapter 14.33.

7 **14.33.230 Private right of action**

8 A. Any person or class of persons that suffers financial injury as a result of a violation of
9 this Chapter 14.33 or is the subject of prohibited retaliation under Section 14.33.120, may bring a
10 civil action in a court of competent jurisdiction against the TNC or other person violating this
11 Chapter 14.33 and, upon prevailing, may be awarded reasonable attorney fees and costs and such
12 legal or equitable relief as may be appropriate to remedy the violation including, without
13 limitation, the payment of any unpaid compensation plus interest due to the person and
14 liquidated damages in an additional amount of up to twice the unpaid compensation; a penalty
15 payable to any aggrieved party of up to \$5,565.10 if the aggrieved party was subject to
16 prohibited retaliation. Interest shall accrue from the date the unpaid compensation was first due
17 at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.

18 B. For purposes of this Section 14.33.230, "person" includes any entity a member of
19 which has suffered financial injury or retaliation, or any other individual or entity acting on
20 behalf of an aggrieved party that has suffered financial injury or retaliation.

21 C. For purposes of determining membership within a class of persons entitled to bring an
22 action under this Section 14.33.230, two or more TNC drivers are similarly situated if they:

1 1. Are or were contracted to perform TNC services by the same TNC or TNCs,
2 whether concurrently or otherwise, at some point during the applicable statute of limitations
3 period,

4 2. Allege one or more violations that raise similar questions as to liability, and

5 3. Seek similar forms of relief.

6 D. For purposes of subsection 14.33.230.C, TNC drivers shall not be considered
7 dissimilar solely because their:

8 1. Claims seek damages that differ in amount, or

9 2. Job titles or other means of classifying TNC drivers differ in ways that are
10 unrelated to their claims.

11 E. Nothing contained in this Chapter 14.33 is intended to be nor shall be construed to
12 create or form the basis for any liability on the part of the City, or its officers, employees or
13 agents, for any injury or damage resulting from or by reason of any act or omission in connection
14 with the implementation or enforcement of this chapter on the part of the City by its officers,
15 employees or agents.

16 **14.33.235 Encouragement of more generous policies**

17 A. Nothing in this Chapter 14.33 shall be construed to discourage or prohibit a TNC from
18 the adoption or retention of protections more generous than the ones required by this Chapter
19 14.33.

20 B. Nothing in this Chapter 14.33 shall be construed as diminishing the obligation of a
21 TNC to comply with any contract, or other agreement providing more generous protections to
22 TNC drivers than required by this Chapter 14.33.

23 **14.33.240 Other legal requirements**

1 This Chapter 14.33 defines requirements for TNC driver protections and shall not be construed
2 to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement,
3 policy, or standard that provides for greater requirements; and nothing in this Chapter 14.33 shall
4 be interpreted or applied so as to create any power or duty in conflict with federal or state law.
5 Nor shall this Chapter 14.33 be construed to preclude any person aggrieved from seeking judicial
6 review of any final administrative decision or order made under this Chapter 14.33 affecting
7 such person.

8 **14.33.245 Study of application of TNC driver protections**

9 A. The Council may request the Agency to contract with academic researchers who have
10 a proven track record of rigorous analysis of the impacts of labor standards regulations to
11 conduct an evaluation of the impacts of this ordinance for the first two years of implementation.
12 The Agency should complete the evaluation within three years of the effective date of this
13 section and may have discretion to determine whether the evaluation shall consist of a single
14 report for the entire evaluation period or periodic reports focused on shorter time periods. Areas
15 of evaluation may include, but not be limited to, the impacts of this ordinance on TNCs, TNC
16 drivers, including TNC driver earnings and work hours, the share of time TNC drivers spend in
17 or miles they drive during available platform time, dispatch platform time, and passenger
18 platform time, TNC passengers, including passenger fares and average passenger wait times,
19 new TNC driver applications, and total active TNC drivers.

20 B. The Council may use the results of the evaluation to identify possible areas for
21 revision to accomplish the goals of this ordinance.

1 C. The provisions set forth in subsection 14.33.245.A may be conditioned on the City
2 Council appropriating sufficient monies to fund the evaluation described in subsection
3 14.33.245.A.

4 D. During the first year following the effective date of this section, the Agency may
5 conduct an evaluation of the impacts of this ordinance following implementation. Areas of
6 evaluation may include, but not be limited to, the impacts of this ordinance on TNCs, TNC
7 drivers, including TNC driver earnings and work hours, the share of time TNC drivers spend in
8 or miles they drive during available platform time, dispatch platform time, and passenger
9 platform time, TNC passengers, including passenger fares and average passenger wait times,
10 new TNC driver applications, and total active TNC drivers. If at any time the Agency determines
11 that the ordinance is not achieving its stated purposes, the Agency may propose changes either
12 through a rulemaking process or by proposing amendments to the Ordinance.

13 **14.33.250 Severability**

14 The provisions of this Chapter 14.33 are declared to be separate and severable. If any clause,
15 sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.33, or the
16 application thereof to any TNC, TNC driver, or circumstance, is held to be invalid, it shall not
17 affect the validity of the remainder of this Chapter 14.33, or the validity of its application to
18 other persons or circumstances.

19 Section 3. Section 3.02.125 of the Seattle Municipal Code, last amended by Ordinance
20 126094, is amended as follows:

21 **3.02.125 Hearing Examiner filing fees**

22 A. The filing fee for a case before the City Hearing Examiner is \$85, with the following
23 exceptions:

Basis for Case	Fee in dollars
* * *	
Third Party Utility Billing (Chapter 7.25)	No fee
<u>Transportation Network Company Driver Minimum Compensation (Chapter 14.33)</u>	<u>No fee</u>
Type III or Type IV Land Use Application (Chapter 23.76)	No fee
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Section 4. Section 3.15.000 of the Seattle Municipal Code, last amended by Ordinance 125976, is amended as follows:

3.15.000 Office of Labor Standards created – Functions

There is created within the Executive Department an Office of Labor Standards, under the direction of the Mayor. The mission of the Office of Labor Standards is to advance labor standards through thoughtful community and business engagement, strategic enforcement and innovative policy development, with a commitment to race and social justice. The Office of Labor Standards seeks to promote greater economic opportunity and further the health, safety, and welfare of employees; support employers in their implementation of labor standards requirements; and end barriers to workplace equity for women, communities of color, immigrants and refugees, and other vulnerable workers.

The functions of the Office of Labor Standards are as follows:

- A. Promoting labor standards through outreach, education, technical assistance, and training for employees and employers;
- B. Collecting and analyzing data on labor standards enforcement;
- C. Partnering with community, businesses, and workers for stakeholder input and collaboration;
- D. Developing innovative labor standards policy;

1 E. Administering and enforcing City of Seattle ordinances relating to (~~minimum wage~~
2 ~~and minimum compensation (Chapter 14.19),~~) paid sick and safe time (Chapter 14.16), use of
3 criminal history in employment decisions (Chapter 14.17), minimum wage and minimum
4 compensation (Chapter 14.19), wage and tip compensation requirements (Chapter 14.20), secure
5 scheduling (Chapter 14.22), domestic workers (Chapter 14.23), hotel employees safety
6 protections (Chapter 14.26), protecting hotel employees from injury (Chapter 14.27), improving
7 access to medical care for hotel employees (Chapter 14.28), hotel employees job retention
8 (Chapter 14.29), commuter benefits (Chapter 14.30), transportation network company driver
9 deactivation protections (Chapter 14.32), transportation network company driver minimum
10 compensation (Chapter 14.33), and other labor standards ordinances that may be enacted in the
11 future.

12 Section 5. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last
13 amended by Ordinance 126108, is amended as follows:

14 **6.208.020 Denial, revocation of, or refusal to renew business license**

15 A. In addition to any other powers and authority provided under this Title 6, the Director,
16 or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any
17 business license issued under the provisions of this Chapter 6.208. The Director, or the Director's
18 designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or
19 refusal to renew the license and on what grounds such a decision was based. The Director may
20 deny, revoke, or refuse to renew any license issued under this Chapter 6.208 on one or more of
21 the following grounds:

- 22 1. The license was procured by fraud or false representation of fact.
- 23 2. The licensee has failed to comply with any provisions of this Chapter 6.208.

1 3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35,
2 5.40, 5.45, 5.46, 5.48, 5.50, or 5.52.

3 4. The licensee is in default in any payment of any license fee or tax under Title 5
4 or Title 6.

5 5. The property at which the business is located has been determined by a court to
6 be a chronic nuisance property as provided in Chapter 10.09.

7 6. The applicant or licensee has been convicted of theft under subsection
8 12A.08.060.A.4 within the last ten years.

9 7. The applicant or licensee is a person subject within the last ten years to a court
10 order entering final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29
11 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of
12 either:

13 a. The expiration of the time for filing an appeal from the final judgment
14 order under the court rules in effect at the time of the final judgment order; or

15 b. If a timely appeal is made, the date of the final resolution of that appeal
16 and any subsequent appeals resulting in final judicial affirmation of the findings of violations of
17 chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.

18 8. The applicant or licensee is a person subject within the last ten years to a final
19 and binding citation and notice of assessment from the Washington Department of Labor and
20 Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and
21 penalties assessed therewith were not satisfied within 30 days of the date the citation became
22 final and binding.

1 9. Pursuant to subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4,
2 14.20.080.A.4, 14.22.115.A.4, 14.23.115.A.4, 14.26.210.A.4, 14.27.210.A.4, 14.28.210.A.4,
3 ((~~and~~)) 14.30.180.A.4, and 14.33.210.A.4, subsection 100.240.A.4 of Ordinance 126091, and
4 subsection 100.240.A.4 of Ordinance 126094, the applicant or licensee has failed to comply,
5 within 30 days of service of any settlement agreement, with any final order issued by the
6 Director of the Office of Labor Standards, or any final order issued by the Hearing Examiner
7 under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, ((~~and~~))
8 14.30, and 14.33, Ordinance 126091, and Ordinance 126094 for which all appeal rights have
9 been exhausted, and the Director of the Office of Labor Standards has requested that the Director
10 deny, refuse to renew, or revoke any business license held or requested by the applicant or
11 licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the
12 violation(s) under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29,
13 ((~~and~~)) 14.30, and 14.33, Ordinance 126091, and Ordinance 126094 are remedied.

14 10. The business is one that requires an additional license under this Title 6 and
15 the business does not hold that license.

16 11. The business has been determined under a separate enforcement process to be
17 operating in violation of law.

18 Section 6. The title of Chapter 14.31 of the Seattle Municipal Code, enacted by
19 Ordinance 125977, is amended as follows:

20 **CHAPTER 14.31 TRANSPORTATION NETWORK COMPANY DRIVERS MINIMUM**
21 **COMPENSATION STUDY**

22 Section 7. Section 14.31.010 of the Seattle Municipal Code, enacted by Ordinance
23 125977, is amended as follows:

1 **14.31.010 Short title**

2 This Chapter 14.31 shall constitute the “Transportation Network Company Driver Minimum
3 Compensation Study Ordinance” and may be cited as such.

4 Section 8. No provision of this ordinance shall be construed as providing any
5 determination regarding the legal status of TNC drivers as employees or independent contractors.

1 Section 9. Section 2 of this ordinance shall take effect on January 1, 2021.

2 Section 10. This ordinance shall take effect and be in force 30 days after its approval by
3 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
4 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

5 Passed by the City Council the _____ day of _____, 2020,
6 and signed by me in open session in authentication of its passage this _____ day of
7 _____, 2020.

8 _____
9 President _____ of the City Council

10 Approved by me this _____ day of _____, 2020.

11 _____
12 Jenny A. Durkan, Mayor

13 Filed by me this _____ day of _____, 2020.

14 _____
15 Monica Martinez Simmons, City Clerk

16 (Seal)