

**PENINSULA CORRIDOR JOINT POWERS BOARD
2023 CALTRAIN GO PASS CLIPPER PROGRAM AGREEMENT**

Participant Name: _____

Address: _____

Legal Notice Address (if different from above): _____

Contact Person: _____

Email: _____

Phone: _____

Alternate Phone: _____

Total Payment: \$X

Number of Participating Sites: X

Number of Go Pass Users as defined below: X

Go Pass Eligibility

- Business**
All staff working more than 20 hours per week, excluding temporary employees, interns, contractors, consultants and sworn peace officers** are considered "Go Pass Users" for the purpose of this Agreement. Temporary employees, interns, contractors, consultants and sworn peace officers** are not eligible to participate in the Go Pass Program. Notwithstanding the foregoing, Participant may issue unused Go Passes to its onsite staff working less than 20 hours per week, interns, consultants, contractors, post-graduate students or graduate students and they will be considered "Go Pass Users" under this agreement.

- Residential**
All residents five years old and older are considered "Go Pass Users" for the purpose of this Agreement. Employees of residential developments are excluded from the Go Pass Program.

- Educational**
All students per selected group are considered "Go Pass Users" for the purpose of this Agreement.

Agreement Term: January 1, 2023 through December 31, 2023

Participant agrees to the attached terms and conditions

XXX*

PENINSULA CORRIDOR JOINT POWERS BOARD

By: _____

By: _____

Print Name: _____

Print Name: Michelle Bouchard

Title: _____

Title: Executive Director

By: _____

Print Name: _____

Title: _____

** If Participant is a corporation **or limited liability company**, two corporate officers must sign on behalf of the corporation as follows: 1) the chairman of the board, president or vice-president; and 2) the secretary, assistant secretary, chief financial officer, or assistant treasurer. In the alternative, this Agreement may be executed by a single officer or a person other than an officer provided that evidence satisfactory to the JPB is provided demonstrating that such individual is authorized to bind the corporation (e.g. a copy of a certified resolution from the corporation's board or a copy of the corporation's bylaws). ** Uniformed and non-uniformed, sworn peace officers are allowed to ride Caltrain for free subject to showing the proper identification.*

TERMS AND CONDITIONS

This Go Pass Agreement ("Agreement") is made between the Peninsula Corridor Joint Powers Board, a public agency ("JPB") and the Go Pass Participant ("Participant") identified on page 1 of this Agreement.

- 1. PAYMENT:** Full payment for all Go Passes shall be due to JPB prior to JPB allowing the Participant to load the Go Pass product onto a User's Clipper Card. The total cost of participating in the Go Pass program will be the greater of \$28,728 or \$342.00 per eligible Go Pass User. Prices include a non-refundable Administration Fee (the "Administration Fee") of \$3 per Go Pass User. If the number of Users increases during 2023, the cost of additional Go Passes will be a pro-rated per amount based on Exhibit A on page 7 of this Agreement. The Go Pass Participant may share the cost of participation in the Go Pass program with its Users, but the cost to a particular User cannot be higher than the "per eligible Go Pass User" amount paid at the effective start date of the program. Participant must submit payment for any invoices within 30 days of the date shown on the invoice. Payments after 60 days will be charged a late fee of \$5 per day. Accepted payment methods include ACH, EFT and Participant checks. Personal Go Pass User checks are not accepted. The return of a check (electronic or paper) issued to JPB will result in a \$25 returned check fee being placed on the account of the Participant.
- 2. CLIPPER CARD FEE:** A Clipper Card fee of \$3 applies to each Adult Clipper card ordered. This fee is for the cost of an Adult Clipper card, as determined and assessed by the Clipper Program. If an eligible user already has an Adult Clipper Card, it may be used for the Go Pass and the Clipper Card fee will not be assessed. Participant may place bulk orders for Adult Clipper cards directly through Clipper.
- 3. PROGRAM SERVICE AND FARE VALIDATION:** The JPB operates the "Caltrain" rail service between San Francisco and Gilroy, California, and Participant desires to provide a transit benefit for use on Caltrain to all of the Go Pass Users as defined on Page 1, in the form of a product that is loaded to a Clipper Card ("Go Pass"). In order to facilitate the Caltrain Go Pass Program ("Program"), Participant will work with Clipper and JPB to coordinate Go Pass product deactivations and activations through Clipper's online portal. After the User's Clipper Card serial number is entered into the portal, the User must tag the Clipper Card reader on the Caltrain station platform to load the Go Pass product to their card within 180 days. Go Pass Users must tag on and off on a Clipper Card reader on the station platform before and after boarding on each ride to validate the fare and JPB shall accept the Go Pass as valid fare for travel on the Caltrain system. Go Pass Users must carry their company-issued ID badge (see Section 5) along with their Clipper card for fare inspection. Go Pass Users are subject to all of the JPB's fare inspection regulations.
- 4. ELIGIBLE PARTICIPANTS:** Only individual Participants are eligible to participate in the Program. Participants with multiple locations, branches or campuses are eligible to participate in the Program and must provide a Go Pass User count for each individual Participant site. However, such Participants must enroll in the Program under a single Go Pass Agreement and designate a single contact and administrator. Such Participants' employees/students/residents at non-participating locations are not eligible to participate in the Program. Go Passes may not be provided or resold to individuals outside the Participating Sites selected. Violation of this may result in termination of this Agreement pursuant to Section 17 of this Agreement and loss of Participant's eligibility for future participation in the program.
- 5. GO PASS IDENTIFICATION:** Participant must have an official Participant-issued photo ID card in order to participate in the Program and must supply a hard copy of that ID card to the JPB for review. Any Participant that doesn't have a photo ID card must create one. The ID card must display a clear Go Pass User headshot, Go Pass User first and last name, and display the Participant name or logo. The ID cannot contain Caltrain's logo as part of the design. If the ID changes, it is the Participant's responsibility to submit the new version to the JPB three weeks in advance for approval. Participants may only use one JPB-approved ID card design.
- 6. ELIGIBLE GO PASS USER VERIFICATION:** Go Passes must be purchased for each and every Go Pass User at each Participant work site participating in the program ("Participating Site(s)"). Participant will be required, prior to the JPB issuing the Go Passes to provide JPB with an Intent to Participate Form ("Intent Form") signed by the Human Resources Manager, Director, an officer of the Participant or Development Manager verifying the then-current number of Go Pass Users of the Participant at each Participating Site. If there are multiple Participating Sites, the Intent Form must indicate the individual site addresses and the number of then-current Users at each site. Neither Participant nor any of its affiliates shall be required to participate in the Program with respect to other sites other than the Participating Site(s) identified in the Intent Form. The Intent Form should also include the Participant name as it should be written on cover page of Go Pass agreement, main contact person first and last name, phone and email address, main contact Participant site address and Legal Notice address if different than Participant site address.

- 7. PROGRAM RECORDKEEPING:** Participant will create and maintain a Go Pass Log of its Users who currently hold Go Passes. The Go Pass Log columns shall include the Participant name, Go Pass User's first and last name, unique serial number for the individual Clipper Card each Go Pass User holds, Go Pass status (i.e. active, lost, damaged or stolen), date the Go Pass becomes added and blocked, if applicable, indicate Go Pass User definition (>20 hours, <20 hours, interns, contractor/consultant, post-doctoral and graduate students), company consultant/contractor works for and any other pertinent information. Participant will be responsible for adding and blocking the Go Pass product through the Clipper program and its online portal. A sample Go Pass Log and online portal instructions will be provided. Participant may decide when to submit the Clipper Card serial numbers to load the Go Pass through the online portal, but when blocking a product, it must be done within three business days of learning of the information requiring a block to be placed. The Go Pass will be available for pick-up within three business days after being entered into the portal once tagged. If the Go Pass is not tagged within 180 days, the action to load the Go Pass will expire and it will have to be re-entered by Participant into the portal.
- 8. SURVEY AND ACKNOWLEDGEMENT:** Prior to uploading the Go Pass to the Go Pass User's Clipper Card, Participant shall require each Go Pass User receiving a Go Pass, for the first time, to complete an online questionnaire ("Survey"). Go Pass Users receiving a replacement Go Pass should not complete an additional survey. Once the Survey is complete, Participant administrator will receive an e-mail confirmation from the Go Pass User via the JPB. As part of completing the survey, the Go Pass User will be required to acknowledge that he or she understands and agrees to the proper use of the Go Pass. The Surveys may be used to analyze the success of the Program and develop ridership projections for the Program. However, the Surveys are subject to disclosure under requests made pursuant to the California Public Records Act. Prior to disclosing Surveys, any identifying information concerning the Participant and/or the Go Pass User shall be redacted.
- 9. PROGRAM ANALYSIS AND AUDIT:** JPB reserves the right to audit Participant's Go Pass Program at any point during the Program year with five (5) working days' notice. The purpose of the audit is to ensure that appropriate tracking procedures are in place. Within 10 working days of receipt of any audit report from the JPB, Participant must, in conjunction with JPB staff, develop a mutually agreeable action plan to satisfy any audit findings. If no mutually agreeable plan can be developed, JPB may terminate the Program upon 15-days' notice pursuant to the terms of Section 17, Termination.
- 10. PARKING PERMITS:** Go Pass Users are eligible to purchase monthly parking permits for Caltrain lots and may be purchased through any Caltrain station ticket machine. After three business days of successfully loading the Go Pass to the Clipper card, Go Pass Users may enter their 10-digit Clipper Card number in the machine to purchase.
- 11. LOST, STOLEN, DAMAGED & REPLACEMENT GO PASSES:**

If the Clipper Card is registered and/or has cash value or another product, in addition to the Go Pass, the Go Pass User must call the Clipper Customer Service Bureau to block the card and report the card as lost or stolen to Go Pass Participant. Participant shall update its Go Pass Log to indicate the Go Pass as lost or stolen and confirm that it has requested a block to be applied to the Go Pass product through the online Clipper portal.

Once the Go Pass User receives a new Clipper Card, the new card serial number must be provided to Participant and Participant must load the Go Pass through the online Clipper portal. A Go Pass will not be issued as a replacement for lost or stolen Go Passes a third time.
- 12. SEPARATED USERS:**

For separated users, Participant shall update its Go Pass Log to indicate the Go Pass User status as separated, include the date of separation, and confirm that it has requested a block to be applied to the Go Pass product through the online Clipper portal within three business days after Go Pass User date of separation.
- 13. FOR MISSING GO PASSES:** Participant shall be responsible for safeguarding the pre-loaded Clipper cards with Go passes prior to issuing them to Users. Participant shall be liable for any loss of pre-loaded Clipper cards with Go passes. Replacement Go passes shall be issued under the lost terms above.
- 14. FOR MISUSED OR CONFISCATED GO PASSES:** If Go Pass User had its Go Pass confiscated during fare enforcement and would like a replacement, and it has been determined that the Go Pass was misused, the replacement will be 2x the first-time replacement rate (\$684).
- 15. REPORTING:** Participant must submit a report to JPB by March 1, June 1, September 1 and December 1 of the agreement term year. The report must list all lost, stolen, damaged and replacement Go Passes issued and

separated Users. It must include the reason for replacement, if applicable, Go Pass User first and last name and corresponding Clipper Card serial number and the current number of Users working at the work site(s)/residing in the development enrolled in the program. Participant may submit its Go Pass Log (as described in Section 7 above) in lieu of the report.

16. UNUSED GO PASS DISTRIBUTION:

Participant may issue its unused Go Pass products to on-site contractors, consultants, staff working less than 20 hours per week, interns, graduate and post-doctoral students ("Extra Users"). Participant must track all Go passes issued to Extra Users on its Go Pass Log in accordance with Section 7.

17. TERMINATION: Either party may terminate this Agreement by giving the other party written notice at least 90 days prior to the desired termination date, which shall be the last day of a calendar month. If either party terminates the Agreement pursuant to this provision, JPB shall refund to Participant a pro-rata portion of Participant's total payment in accordance with the Proration Schedule attached to and incorporated in this Agreement as Exhibit A, less the Administration Fee, as listed in Item 1, within 30 days after the termination date. In the event Participant fails to comply with the terms of this Agreement, JPB may terminate this Agreement with 15 days' notice. Non-compliance by Participant may make Participant ineligible to participate in the Go Pass program in subsequent years, as determined by the JPB in its sole discretion. This Agreement shall automatically terminate if Participant discontinues its business at the Participating Site(s) and it will be up to Participant to notify its Go Pass Users that the Go Pass will no longer be valid. JPB has the right, in its sole discretion, to block Go Pass products on Go Pass Users' cards.

18. MISUSE OF GO PASS: The Go Pass constitutes a fare media product that is valid only so long as it is used in full conformance with the terms set forth herein.

Go Pass Participant – JPB agrees not to pursue any claims or demands against Participant for a Go Pass User's unauthorized use of the Go Pass, unless the unauthorized use is the result of Participant's failure to follow the issuance procedures in Section 5, gross negligence or willful misconduct. The transfer of the Go Pass product constitutes fare evasion, which is a violation of California Penal Code section 640. At the time of Go Pass issuance, Participant shall (1) notify its Users that Go Passes are non-transferrable and that transferring a Go Pass constitutes fare evasion under the law, and (2) shall remind Users of their agreement to the terms of usage provided in the Survey.

Go Pass User - All Go Pass Users shall be subject to JPB's fare inspection regulations. JPB may confiscate and/or destroy the Clipper Card and pursue claims or demands against, or seek prosecution of, anyone who duplicates, alters, transfers, sells or commits unauthorized use of the Go Pass. Unauthorized use of the Go Pass includes, but is not limited to, allowing a non-eligible person to use a Go Pass.

JPB may cancel any individual Go Pass if it has reason to believe that the Go Pass was issued and/or used in a manner that fails to comply with the requirements herein. JPB will notify Participant if it has any such concerns and, after appropriate investigation, revoke those passes in question (and block Go Pass products on Go Pass Users' Clipper cards). Participant agrees to cooperate with JPB in such an investigation, including assisting the JPB in determining the identity of the Go Pass User(s) who are alleged to have misused the Go Pass. Participant waives all remedies and rights to refunds for any Go Passes revoked for misuse. JPB will incur no liability resulting from blocked or confiscated Go passes due to misuse or Go passes from a Go Pass User whose Participant's Agreement has been terminated.

19. PROTECTION OF PRIVACY: The JPB contracts with a third-party online survey platform, Qualtrics, to facilitate Participant registration and agreement to the user terms and conditions of the Program, facilitate administration of the Program by the participating company, and collect Caltrain usage information. Participants are directed to review provider's website and privacy policy for additional information regarding its data privacy and security provisions at <https://www.qualtrics.com/privacy-statement> and <https://www.qualtrics.com/security-statement>. JPB acknowledges that it may review data stored on the third-party online survey platform that contains personally identifiable information (PII) or confidential information about the Participant or the Go Pass User ("Information") to administer the Go Pass Program. If requested by a Participant's Go Pass administrator, the JPB may share a list of Go Pass User names with the administrator directly from the online survey platform. The JPB does not store any PII collected through the Go Pass Program on its servers. Except as required to administer the Go Pass Program in accordance with this Agreement or as otherwise required by law, JPB agrees not to use or to disclose to third parties the Information. Notwithstanding the foregoing, JPB may use and disclose to third parties information in an aggregate format that does not personally identify a Go Pass User. JPB and its third-party service providers will delete all Participant and Go

Pass User PII within 30 days after the close of Survey, but will retain the name and email address of users who opt in to receive marketing or market research related communications from the JPB.

Go Passes that are furnished on Clipper® electronic fare cards are subject to MTC's privacy policy, which can be found at <https://www.clippercard.com/ClipperWeb/privacy.do>.

- 20. ENTIRE AGREEMENT:** This contract contains the entire Agreement between the parties hereto for the term specified on Page 1 of this Agreement and cannot be changed or altered except by written agreement signed by both parties hereto. Neither party shall be bound by any oral agreement or other understandings contrary to or in addition to the terms and conditions as stated herein.
- 21. SUCCESSORS AND ASSIGNS:** The terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of Participant and JPB and, except as otherwise provided herein, their personal representatives and successors and assigns.
- 22. NO THIRD-PARTY BENEFICIARIES:** There are no third-party beneficiaries to this Agreement.
- 23. NO JOINT VENTURE:** It is expressly agreed that Participant is not, in any way or for any purpose, a partner of the JPB in the conduct of JPB's business or a member of a joint enterprise with JPB, and does not assume any responsibility for JPB's conduct or performance of this Agreement. It is expressly agreed that JPB is not, in any way or for any purpose, a partner of the Participant in the conduct of Participant's business or a member of a joint enterprise with Participant, and does not assume any responsibility for Participant's conduct or performance of this Agreement.
- 24. ATTORNEYS' FEES:** In the event that either JPB or Participant fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other Party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees.
- 25. GOVERNING LAW:** This Agreement shall be governed and construed in accordance with the laws of the State of California. Any action relating to, and all disputes arising under, this Agreement shall be instituted and prosecuted in a court of competent jurisdiction in the State of California.
- 26. NOTICES:** All notices, requests, communications and legal notices to be made or given to Participant under this Agreement shall be addressed as shown on page 1 of this Agreement. All notices, including legal notices, communications and requests to be made or given to JPB shall be addressed as follows or sent electronically to b2b@caltrain.com:

Peninsula Corridor Joint Powers Board (Caltrain)
Attn: B2B – Finance Division
1250 San Carlos Ave.
San Carlos, CA 94070-1306

SAMPLE

Exhibit A

Proration Schedule

New Participants

Effective Date (falling in month)	Portion of Total Fee per Go Pass More than Minimum (includes administration fee)	Portion of Total Fee per Go Pass Less than Minimum (includes administration fee)
February	\$313.75	\$26,355.00
March	\$285.50	\$23,982.00
April	\$257.25	\$21,609.00
May	\$229.00	\$19,236.00
June	\$200.75	\$16,863.00
July	\$172.50	\$14,490.00
August	\$144.25	\$12,117.00
September	\$116.00	\$9,744.00
October	\$87.75	\$7,371.00
November	\$59.50	\$4,998.00
December	\$31.25	\$2,625.00

Terminating Participants

Effective Termination Date (falling in month)	Portion of Total Fee Returned per Go Pass More than Minimum (less administration fees)	Portion of Total Fee Returned per Go Pass Less than Minimum (less administration fees)
February	\$310.75	\$26,103.00
March	\$282.50	\$23,730.00
April	\$254.25	\$21,357.00
May	\$226.00	\$18,984.00
June	\$197.75	\$16,611.00
July	\$169.50	\$14,238.00
August	\$141.25	\$11,865.00
September	\$113.00	\$9,492.00
October	\$84.75	\$7,119.00
November	\$56.50	\$4,746.00
December	\$28.25	\$2,373.00