

SUFFOLK, SS COMMONWEALTH OF MASSACHUSETTS SUPERIOR COURT

ANDREA CAMPBELL, in her official
capacity as ATTORNEY GENERAL
for the COMMONWEALTH OF
MASSACHUSETTS,

Plaintiff,

v.

UBER TECHNOLOGIES, INC. and
LYFT, INC.

Defendants

CIVIL ACTION NO.
2084CV01519-BLS1

LYFT INC.'S PROPOSED FINDINGS OF FACT

Pursuant to the Court's Trial Order, Defendant Lyft Inc. ("Lyft") submits the following proposed findings of fact:

AGO RESPONSES TO PROPOSED FINDINGS OF FACT

I. THE LYFT PLATFORM

1. Lyft is an online platform that provides drivers and riders a way to access on-demand ridesharing. (Jeremy Bird.)

AGO Response: Disputed.¹ The Attorney General takes issue with the characterization that Lyft is a platform as well as the implication that this is the extent of Lyft's business model. Notwithstanding, it is undisputed that Lyft develops apps and connects riders in need of transportation with drivers who provide rides. (Ant. Test. of David Weil.)²

2. Lyft acts as an intermediary between drivers looking for earnings opportunities and riders looking for transportation. (Jeremy Bird; Titouan Jehl; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft as merely an intermediary between riders and drivers and the implications regarding the nature and extent of Lyft's business model. Notwithstanding, it is undisputed that Lyft develops apps and connects riders in need of transportation with drivers who provide rides. (Ant. Test. of David Weil.)

¹ In addition to providing the information prescribed under option two of this Court's trial order, dated June 14, 2023, AGO has taken the additional steps—in the spirit of cooperation and with the goal of narrowing the scope of triable issues—of (1) identifying those proposed findings which it only partially disputes, and, in such instances, (2) identifying alternative phrasings of same to which it appears both parties likely agree.

² All evidentiary citations provided as grounds for dispute are illustrative, and AGO in no way waives its rights at trial to dispute any fact at issue by the use of any evidence adduced at trial.

3. Lyft provides a number of services that bring together these drivers and riders and enable them to transact with each other, which was very difficult before intermediaries like Lyft. (Jeremy Bird; Olivia Henry; Titouan Jehl; David Riege; Catherine Tucker; One or more of the following third-party witnesses that have experience using the Lyft platform to provide rides: Khalid Benlail, John Bonham, Alain Cabache, Joshua Cambridge, Robert Ciccarelli, Shepard Collins, Benjamin Chase, Kevin Clark, Steven Cordiero, Raya Denny, Edward Gannon, Jr., Kevin Hyland, Rebekah Field, Christopher Hansen, Richard Kambugu, Felipe Martinez, Mary-Ellen McAllister, Octavio Mejia-Suarez, David Moyer, Mark Pompee, Ronald Skidmore, Kenneth Smock, Dhiraj Tulachan, Kyle Tsyvaer, Anthony Venezia, Timothy Wilkins, and Naser Zorrock (“Driver Witnesses”).)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about services, the characterization of the legal relationship between Lyft, riders, and drivers, and the implications regarding the nature and extent of Lyft’s business model. Notwithstanding, it is undisputed that Lyft develops apps and connects riders in need of transportation with drivers who provide rides. (Ant. Test. of David Weil.)

4. In 2022, over 30,000 drivers used the Lyft platform to provide one or more rides beginning in Massachusetts. (Ex. 2100.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the legal relationship between Lyft, riders, and drivers and the implications regarding the nature and extent of Lyft’s business model. Notwithstanding, it is undisputed as to the number of drivers who provided rides through Lyft’s Ridesharing App in 2022. (Ant. Test. of David Weil.)

5. In 2023, that number grew—over 35,000 drivers used the Lyft platform to provide one or more rides beginning in Massachusetts. (Jeremy Bird.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the

legal relationship between Lyft, riders, and drivers and the implications regarding the nature and extent of Lyft's business model. Notwithstanding, it is undisputed as to the number of drivers who provided rides through Lyft's Ridesharing App in 2023. (Ant. Test. of David Weil.)

6. Drivers using Lyft do not need to work set hours or a set amount of hours.

(Jeremy Bird; Driver Witnesses.)

AGO Response: Undisputed.

7. Drivers can take as many hours, days, weeks, months or years off as they want from using the platform without losing their ability to earn money using Lyft. (Driver Witnesses.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that drivers can take as many hours, days, weeks, months or years off as they want from using the platform without losing their ability to earn money using Lyft.

8. Nationally, in the second half of 2023, the median driver using Lyft earned \$30.68 per hour (including tips and bonuses), before expenses, for the time they spent driving to pick up a passenger or with a passenger in their car. (Jeremy Bird.)

AGO Response: Disputed. The median driver earning is lower when factoring in the uncompensated time that drivers spent logged in to the Lyft App and waiting for ride assignments. (Ant. Test. of James Parrott.)

9. In Massachusetts, the median driver using Lyft earned \$36.25 per hour (including tips and bonuses), before expenses, for the time they spent driving to pick up a passenger or with a passenger in their car. (Jeremy Bird.)

AGO Response: Disputed. The median driver earning is lower when factoring in the

uncompensated time that drivers spent logged in to the Lyft App and waiting for ride assignments. (Ant. Test. of James Parrott.)

10. Lyft estimates that, in Massachusetts, the median driver using Lyft earned \$30.20 per hour (including tips and bonuses), after expenses, for the time they spent driving to pick up a passenger or with a passenger in their car. (Jeremy Bird.)

AGO Response: Disputed. Driver earnings per hour are lower when factoring in the uncompensated time that drivers spent logged in to the Lyft App and waiting for ride assignments. (Ant. Test. of James Parrott.)

II. THE LYFT PLATFORM OFFERS DRIVERS A UNIQUE AND FLEXIBLE WAY TO EARN MONEY

A. Drivers Can Use Lyft When They Want For How Long They Want

11. For many people using Lyft as drivers, alternative jobs include restaurant waiters, retail representatives, delivery drivers, bartenders, cooks, housekeepers, associate jobs in Amazon warehouses, baristas at Starbucks, and stockers at Walmart. (Paul Oyer; Driver Witnesses.)

AGO Response: Undisputed.

12. Employers generally require employees to show up for work at set times and to work the number of hours designated by the employer—no more and no less. (Paul Oyer; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of what “employers generally” require of employees. Notwithstanding, it is undisputed as to the experience of the cited driver witnesses as to previous jobs. (Ant. Test. of Lindsey Cameron; Ant. Test. of James Parrott.)

13. Employers also require employees to perform tasks assigned to them. (Paul Oyer; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of what “employers ... require” employees to perform. Notwithstanding, it is undisputed as to the experience of the cited driver witnesses as to previous jobs. (Ant. Test. of Lindsey Cameron; Ant. Test. of James Parrott.)

14. Drivers can choose if and when they want to log on to the Lyft platform. (Jeremy Bird; David Riege; Driver Witnesses.)

AGO Response: Disputed. (AGO FF 9-18, 33; Ant. Test. of Lindsey Cameron.)

15. Drivers do not need to inform Lyft in advance of when they plan to use the Lyft platform or for how long. (Jeremy Bird; David Riege; Driver Witnesses.)

AGO Response: Disputed. Notwithstanding, it is undisputed that drivers do not need to inform Lyft prior to going “on line.” (AGO FF 9-18, 33; Ant. Test. of Lindsey Cameron.)

16. On any given day, a driver can decide whether or not to log on to the Lyft platform. (Jeremy Bird; David Riege; Driver Witnesses.)

AGO Response: Disputed. (AGO FF 9-18, 33; Ant. Test. of Lindsey Cameron.)

17. Drivers do not need to inform or seek permission from Lyft to work as many or as few hours they want in a day, week, month, or year. (Jeremy Bird; David Riege; Driver Witnesses.)

AGO Response: Disputed. When a driver is providing a ride on the Lyft App, the driver must inform Lyft by signing into the App, going “on line,” receiving a ride through the App, and following the sequence of steps to notify Lyft of their progress for each ride. Notwithstanding, it is undisputed that drivers do not need to seek permission from Lyft in advance for when or for how long they will be “on line.” (AGO FF 33; Ant. Test. of Lindsey Cameron.)

18. Employers generally limit the maximum number of weeks of time off employees can take in a year. (Paul Oyer; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of what “employers generally” do with regards to time off. Notwithstanding, it is undisputed as to the experience of the cited driver witnesses as to previous jobs. (Ant. Test. of Lindsey Cameron.)

19. Drivers can stop using the Lyft platform to provide rides for weeks or months at a time without informing Lyft or obtaining Lyft’s permission. (Jeremy Bird; David Riege; Driver Witnesses.)

AGO Response: Disputed. When a driver goes offline or closes the Lyft App, a driver has informed Lyft that the driver has stopped using the Lyft platform. Notwithstanding, it is undisputed that drivers do not need to obtain permission from Lyft to go off-line. (AG1717; AG1608; AG1910; Ant. Test. of Lindsey Cameron.)

20. When drivers do take weeks or months off from using the Lyft platform, as long as their documents are up to date they can quickly resume driving anytime, without informing Lyft or getting its permission. (Jeremy Bird; David Riege; Driver Witnesses.)

AGO Response: Disputed. Any driver who wishes to resume providing rides using the Lyft App must inform Lyft by logging onto the Lyft App and going “on line” to receive a ride. Notwithstanding, it is undisputed that drivers do not need to obtain permission from Lyft prior to going “on line.” (AGO FF 33; Ant. Test. of Lindsey Cameron.)

21. Citizens in the Commonwealth often start using Lyft when they lose their jobs as a way to pay their bills while looking for other work. (Driver Witnesses.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant. Disputed also where the evidence identified by Defendant does not support the statement as to drivers broadly.

22. Drivers also use the Lyft platform as a way to earn extra money for an upcoming expense, like a family vacation. (Driver Witnesses.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that drivers use the Lyft platform as a way to earn money.

23. The flexibility available to drivers who use Lyft is not consistent with the control an employer has over employees. (Paul Oyer; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the legal conclusion about the extent of control employers generally have over employees as well as Lyft's characterization of flexibility. (Ant. Test. of Lindsey Cameron.)

24. Economists recognize that employers penalize employees who routinely miss work, show up late, are unavailable to work when requested, or refuse to perform assigned tasks. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about whether a worker and business are in an employment relationship. Notwithstanding, it is undisputed that in some jobs a worker can be subject to discipline if the worker misses work, shows up late, is unable to work when requested, or refuse to perform assigned tasks. (Ant. Test. of Lindsey Cameron.)

25. Lyft provides a level of flexibility that the tens of thousands of drivers using the platform in Massachusetts would not have access to with other jobs available to them. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the level of flexibility available in other jobs, and the evidence identified by Defendant does not

support the statement as to drivers broadly. (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

B. Drivers Use The Platform Flexibly

26. Many drivers using the Lyft platform only drive part-time and use the money they earn to supplement earnings from other sources. (Deborah Jay; Driver Witnesses.)

AGO Response: Undisputed.

27. The majority of drivers using the Lyft platform provide rides for a limited number of hours in any given day or week. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the premise of this finding. The finding fails to account for the hours that drivers are logged on and available to work (*i.e.*, P1 time). (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

28. Drivers in Massachusetts who use the Lyft platform provide rides for an average of 7.9 hours per week, on the weeks they choose to drive. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the premise of this finding. The finding fails to account for the hours that drivers are logged on and available to work (*i.e.*, P1 time). (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

29. Drivers drive only on days they chose. On the days that drivers choose to use the Lyft platform, on average:

- a. One quarter (25%) to over half (54%) of drivers in Massachusetts provide rides for 2 hours or less;
- b. The vast majority of drivers—72% to 90%—provide rides 4 hours or less per day;
- c. A very small percentage of drivers (1% to 7%) provide rides for more than 6 hours per day, on the days that they choose to drive. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the premise of this finding. The finding fails to account for the hours that drivers are logged on and available to work (*i.e.*, P1 time). (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

30. A majority of drivers in Massachusetts provide rides for no more than 10 hours per week in the weeks they choose to drive and the vast majority provide rides for no more than 20 hours per week. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the premise of this finding. The finding fails to account for the hours that drivers are logged on and available to work (*i.e.*, P1 time). (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

31. On the days that drivers in Massachusetts use the Lyft platform to provide rides, drivers can and do break up their work over the course of day, with frequent breaks, even prolonged breaks, from driving throughout the day. (Paul Oyer; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the premise of this finding. The finding fails to account for the hours that drivers are logged on and available to work (*i.e.*, P1 time). (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

32. Many drivers who use the Lyft platform in Massachusetts also vary the timing and length of their driving on a daily basis, so that there is little pattern to when and how long they choose to drive. (Paul Oyer; Driver Witnesses.)

AGO Response: Undisputed.

33. Drivers using the Lyft platform take off weeks or months at a time. (Paul Oyer; Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the

Defendant. Notwithstanding, it is undisputed that some drivers take off driving with Lyft for weeks or months. (Ant. Test. of Driver Witnesses.)

34. The majority of drivers take off many more weeks from using Lyft than they would typically be entitled to take off if they had a traditional job. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the presumed benefits of a traditional job. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that some drivers take off many weeks. (Driver Witnesses; Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

35. Prior to the state of emergency declared in Massachusetts in 2020, almost half of all drivers who used the Lyft platform in Massachusetts chose not to drive using Lyft for at least 4 consecutive weeks (45%), and almost a third chose not to drive using Lyft for at least 8 consecutive weeks (30%). (Paul Oyer.)

AGO Response: Undisputed.

36. After the state of emergency was declared in Massachusetts, nearly three-quarters of all drivers who used the Lyft platform in Massachusetts chose not to drive using Lyft for at least 4 consecutive weeks (70%), and over half chose not to drive using Lyft for at least 8 consecutive weeks (63%). (Paul Oyer.)

AGO Response: Undisputed.

37. Drivers are not always in a car when logged into the Lyft driver app and not providing a ride. (Deborah Jay; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

38. Almost half of drivers sometimes spend time in their home or a family or friend's home while logged into the Lyft driver app. (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

39. Over one-third of drivers who use the Lyft platform in Massachusetts sometimes spend time in restaurants or coffee shops while logged into the Lyft driver app. (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

40. When logged into the Lyft platform but not providing a ride or on their way to pick up a rider, many drivers listen to radio shows, podcasts, or audiobooks; make phone calls; send texts or emails; or read. (Deborah Jay; Driver Witnesses)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

41. Roughly one-fifth of drivers who use the Lyft platform in Massachusetts report that they commute to or from a job or school while they are logged into the Lyft driver app but not on their way to pick up a rider or providing a ride. (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

C. Drivers Value The Flexibility That Lyft Provides

42. Drivers report using the Lyft driver platform for a variety of reasons, including that doing so provides the flexibility to take care of children, family, or other personal responsibilities or attend school. (Deborah Jay; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

43. The majority of drivers who use the Lyft platform in Massachusetts report that this flexibility is one of the top two reasons they use the platform. (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

44. The majority of drivers who use the Lyft platform in Massachusetts are responsible for caring for a child or another adult and about one-fourth of drivers require a flexible schedule to perform these responsibilities. (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

45. About one in five drivers using the Lyft platform in Massachusetts are students. (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

46. Nearly one-third of drivers who use Lyft in Massachusetts (31%) report that having the flexibility to allow them to take care of children, family, or other personal responsibilities is the most important reason why they use the Lyft platform. (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

47. Drivers value the ability to use the Lyft platform to earn money when doing so fits into their schedules. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron; Driver Witnesses.)

48. Drivers value the ability to use the platform on any given day at any time without having to get approval. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. Further, the Attorney General takes issue with the characterization that drivers can work without approval from Lyft. (AGO FF 9-33.)

49. Drivers value the ability to pause or stop using the Lyft platform and then resume using it to make money without needing prior approval. (Driver Witnesses.)

AGO Response: Undisputed.

50. Drivers value the ability to use the Lyft platform on the days and times when they think they will be able to maximize their earnings. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that drivers prefer to work on days and times when they will be able to maximize their earnings. (Ant. Test. of Lindsey Cameron.)

51. It is very or extremely important to the vast majority of drivers to have the flexibility to decide:

- a. What time of day or night they use the Lyft platform (91%);
- b. What days of the week they use the Lyft platform (88%);
- c. How many hours they use the Lyft platform on a particular day (88%);
- d. Not to drive for a week or more and still be able to use the Lyft platform (86%);
- e. Whether they use the Lyft platform on a particular day (80%);
- f. Where they drive or what pickup locations they accept (71%);
- g. Whether to accept or reject a ride request (70%). (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the level of importance these issues have to drivers generally. Additionally, the Attorney General takes issue with the cited evidence as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

52. According to a 2021 Pew Research Center study, nearly 50% of gig platform workers cite being able to control their own schedule and 35% cite wanting to be their own boss as a major reason for engaging in such work. (Paul Oyer.)

AGO Response: Undisputed.

53. In the months leading up to March 2020 and resuming in January 2022, U.S. unemployment has been historically low, meaning that most workers have had a number of employment opportunities available to them. (Paul Oyer.)

AGO Response: Undisputed.

54. Workers have varying preferences and benefit from being able to choose between a variety of labor models. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the benefits from choices between a variety of labor models. (Ant. Test. of David Weil.)

55. The kind of flexibility that drivers experience and value is not typically available in employment. In the kinds of alternative work available to the vast majority of drivers, there is little schedule flexibility. And even where employees have some control over their own schedules, employers dictate at least the amount of time employees work. (Jeremy Bird; Paul Oyer; Driver Witnesses)

AGO Response: Disputed. The Attorney General takes issue with the legal conclusions concerning the parameters of an employment relationship and that the evidence cited supports the proposed finding that kinds of alternative work available for “a vast majority of drivers” provides little scheduling flexibility. Notwithstanding, it is undisputed that some employers dictate a worker’s schedule. (Ant. Test. of Driver Witnesses; Ant. Test. of James Parrott.)

D. Drivers Frequently Use Lyft’s Competitors

56. Employers have the authority and control over employees to prohibit them working for competitors, a form of control they typically exercise. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law. Notwithstanding, it is undisputed that in some employment arrangements an employee is prohibited from working for competitors.

57. Employers have the authority and control over employees to prohibit them from doing two jobs simultaneously, a form of control they typically exercise. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law and as to the characterization of working two jobs simultaneously. Notwithstanding, it is undisputed that in some employment arrangements an employee is prohibited from working two jobs simultaneously. (Ant. Test. of David Weil.)

58. Drivers who use the Lyft platform can and do use other platforms that serve as intermediaries for finding work, including Uber, DoorDash, and Instacart. (Deborah Jay; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft as an “intermediary” and as analogous to DoorDash and Instacart. Notwithstanding, it is undisputed that some drivers who use the Lyft platform can and do use other platforms that include Uber, DoorDash and Instacart. (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

59. Finding work through multiple platforms is known as “multi-apping.” (Paul Oyer; Christopher Stanton.)

AGO Response: Undisputed.

60. Drivers who “multi-app” use multiple apps concurrently, or switch from one app to another throughout the day or across days. (Paul Oyer; Christopher Stanton; Driver Witnesses.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that some drivers use more than one app at times.

61. Drivers can multi-app—including by using Uber—without informing Lyft or requesting Lyft’s permission. (Paul Oyer, Christopher Stanton, Driver Witnesses.)

AGO Response: This statement is unsupported by the evidence identified by the Defendant.

Notwithstanding, it is undisputed that a driver can use more than one app—including by using Uber—without informing Lyft or requesting Lyft’s permission.

62. “Multi-apping” is common among drivers who use the Lyft platform.

(Christopher Stanton; Driver Witnesses.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that some drivers use more than one app at times.

63. Between November 30, 2019 and February 1, 2020, nearly half of drivers (46.9%) who used the Lyft platform in Massachusetts used the Uber platform on the same day.

(Christopher Stanton.)

AGO Response: Undisputed.

64. Between November 30, 2019 and February 1, 2020, about half of all drivers (44.5%) who used the Lyft platform in Massachusetts used the Uber platform at the same time.

(Christopher Stanton.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of what constitutes using Lyft and Uber at the same time. Notwithstanding, it is undisputed that a driver can use more than one app—including by using Uber—at times.

65. Drivers who use the Uber and Lyft platforms the most are more likely to take advantage of multi-apping: Between November 30, 2019 and February 1, 2020, 66.3% of drivers in Massachusetts who used Uber and Lyft for average of more than 35 hours per week total engaged in multi-apping on both platforms, and 64.8% of those drivers used both Uber and Lyft simultaneously. (Christopher Stanton.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of what constitutes “multi-apping.” Notwithstanding, it is undisputed that at some point between

November 30, 2019 and February 1, 2020, 66.3% of drivers in Massachusetts who used Uber and Lyft for average of more than 35 hours per week total engaged used both apps but not simultaneously, and 64.8% of those drivers used both Uber and Lyft apps simultaneously.

66. Drivers who use the Lyft platform to provide rides view themselves as running their own independent businesses that provide transportation. (Driver witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. (Driver Witnesses.)

67. Some drivers who use Lyft also work as independent contractors for other companies facilitating transportation, such as limousine services. (Drivers witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about the work relationship a driver has with another entity. Notwithstanding, it is undisputed that some drivers have worked for limousine services.

68. As business owners, drivers can and often do claim tax deductions for expenses related to providing rides using the Lyft platform, including expenses associated with the use of their vehicles. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that drivers can and often do claim tax deductions for expenses related to providing rides using the Lyft platform, including expenses associated with the use of their vehicles. (Driver Witnesses; AGO FF 3-4; AG1608; AG1731.)

69. Lyft provides drivers with an annual summary and 1099-K forms that provide information to drivers for their taxes, including their business expense deductions. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that Lyft provides 1099-K forms to drivers.

III. THE LYFT DRIVER APP

A. The Sign-Up Process

70. Lyft makes it easy for both riders and drivers to join the platform. (Olivia Henry; Driver Witnesses.)

AGO Response: Disputed. (AGO FF 9-32.)

71. To sign-up to use the Lyft platform, all users—drivers and riders—can download the app from an app store. (Esin Arsan Karasabun.)

AGO Response: Undisputed.

72. When signing up to use the platform, both prospective riders and drivers are required to accept Lyft’s Terms of Service. (Olivia Henry.)

AGO Response: Undisputed.

73. The Terms of Service specify that:

- a. Drivers are solely responsible for deciding “when, where, and for how long” they will utilize the platform. (Olivia Henry; Ex. 2001 at -400.)
- b. Lyft will not prescribe specific dates, times of day, or any minimum number of hours drivers must use the platform. (Olivia Henry; Ex. 2001 at -400.)
- c. Lyft does not and shall not require drivers to accept any specific ride request. It is up to each driver and rider to decide whether to not to accept any given ride. (Olivia Henry; Ex. 2001 at -400.)
- d. Drivers retain the right to accept, decline, or ignore ride requests. (Olivia Henry; Ex. 2001 at -400.)
- e. Drivers and Riders form a separate business relationship “when the Rider accepts the Rideshare Services offered by the Driver.” (Olivia Henry; Ex. 2001 at -372.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the Terms of Service as an improper legal conclusion.

74. In addition to signing the Terms of Service, to join the platform as a rider, a user must verify a digital identity and provide a means of payment. (Olivia Henry.)

AGO Response: Undisputed.

75. Employers set a limit on how many employees they need and hire; they generally do not hire anyone who wants a job. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the legal conclusion as to whether a business is an employer. Notwithstanding, it is undisputed that some businesses may choose to limit the number of workers they need and hire. (Ant. Test. of David Weil.)

76. But anyone in the Commonwealth who satisfies certain basic requirements, including those set by the TNC Act and regulations promulgated under that Act, such as passing background checks and meeting vehicle requirements, can use the Lyft platform as a driver. (Olivia Henry; Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law. (AGO FF 17-18.)

77. In Massachusetts, drivers are required to submit a Transportation Network Company inspection report and pass a background and driving-record check. (Olivia Henry; Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

78. The Lyft app helps drivers register to provide rides using the Lyft app in the Commonwealth. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between Lyft and drivers. Notwithstanding, it is undisputed that to use the Lyft App a driver must register. (Ant. Test. of David Weil.)

79. The app allows a prospective user to provide the authorization necessary for third-party checks, such as background and driving-record checks required by the Commonwealth. (Esin Arsan Karasabun; Olivia Henry; Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of what the app “allows” as well as the legal conclusion about what is required by the Commonwealth. Notwithstanding, it is undisputed that a driver who uses the Lyft app must agree to Lyft’s requests for such authorization. (Lyft Terms of Service: AG1615, AG1727, AG1769, AG1770, AG1772, AG1773, AG1944.)

80. Drivers use their own vehicles when using the Lyft platform; Lyft does not provide company vehicles to drivers in Massachusetts. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. Disputed further where Lyft provides leased vehicles to Drivers through its Lyft Express Drive program. (AGO FF 446, Lyft Terms of Service: AG1615, AG1727, AG1769, AG1770, AG1772, AG1773, AG1944.)

81. With limited exceptions, drivers may use any four-door vehicle that has a minimum of five seats, including the driver’s, that was manufactured in the last fifteen years. (AG2037).

AGO Response: Disputed. Any driver that wishes to provide rides in the higher tiers (XL, Black, and Black SUV) must have vehicles that meet additional specification by Lyft. (AGO FF 86.)

82. Drivers access the Lyft app using their own cell phones; Lyft does not provide cell phones to drivers in Massachusetts. (Driver Witnesses.)

AGO Response: Undisputed.

83. Applying for employment typically involves a process that spans several weeks and includes an application, an interview or several interviews, waiting for a hiring decision, and then negotiating a start date. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the legal conclusion about the characteristics of an employment relationship. Notwithstanding, it is undisputed that the application process for some working relationships spans several weeks.

84. For example, the average time to hire in the quick-service restaurant industry is 21 days. (Paul Oyer.)

AGO response: Undisputed.

85. The process of signing up to provide rides through the Lyft platform is generally much more streamlined than the process of applying for employment. (Paul Oyer; Driver Witnesses.)

AGO response: Disputed. The Attorney General takes issue with the characterization of Lyft's driver application process as well as the legal conclusion about the employment relationship. Notwithstanding, it is undisputed as to the experience of the cited driver witnesses.

86. This signup process includes filling out an application online and uploading required documents like proof of insurance. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

87. Drivers signing up to use the Lyft platform do not need to interview and the signup process can take as little as a few days. (Paul Oyer; Driver Witnesses.)

AGO Response: Disputed. Drivers must answer a series of questions presented by Lyft to the driver during the sign-up process. (AGO FF 15.)

88. Once the sign-up process is complete, drivers can immediately begin using the Lyft platform; they do not need to negotiate a start date. (Esin Arsan Karasabun; Paul Oyer; Driver Witnesses.)

AGO Response: Undisputed.

B. How The Lyft App Works

89. After logging into the Lyft app, a driver can tap “Go Online” at the bottom of their screen in the app to start receiving matches. (Esin Arsan Karasabun; Exs. 2017-2018.)

AGO Response: Disputed. Notwithstanding, it is undisputed that a driver must tap “go online” to begin receiving ride requests in the Lyft App. (AGO FF 33.)

90. The time when a driver is logged in but has not accepted a ride request is known as P1 time. (Titouan Jehl; Dave Riege.)

AGO Response: Undisputed.

91. The time when a driver has accepted a ride and is on the way to pick up the rider is known as P2 time. (Titouan Jehl; Dave Riege.)

AGO Response: Undisputed.

92. The time when a driver has picked up a rider and is transporting the rider to a destination is known as P3 time. (Titouan Jehl; Dave Riege.)

AGO Response: Undisputed.

93. Lyft uses a matching algorithm to identify drivers well positioned to offer a ride to a person seeking a specific ride and to propose matches. Lyft does not dictate riders to drivers or drivers to riders. Both can choose whether to accept proposed matches. (Titouan Jehl; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of how Lyft's matching algorithm identifies matches and how Lyft provides those matches to riders or drivers. Notwithstanding, it is undisputed that both the rider and driver can choose whether to accept a ride match. (AGO FF 125-149; Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron)

94. The Lyft platform and technology treat both drivers and riders as its customers, seeking to increase customer satisfaction with the platform among both riders and drivers. (Jeremy Bird; Titouan Jehl; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's business model, its treatment of riders and drivers, and the meaning of "customer satisfaction." (Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron)

95. Lyft has invested significantly in its matching algorithm over time. Over 40 data scientists and engineers work on the development and infrastructure for the matching algorithm. (Titouan Jehl.)

AGO Response: Undisputed.

96. The Lyft platform provides proposed matching for several different kinds of rides, including different car types, sizes, and classes. (Titouan Jehl.)

AGO Response: Undisputed.

97. Ride types vary by location and focus on the type of vehicle supplied:

- a. **Standard Lyft:** Rides for up to 4 riders;
- b. **Green:** Rides in electric or hybrid vehicles;
- c. **Extra Comfort:** Rides in newer vehicles with more experienced drivers;
- a. **Black:** Premium black car service with leather seats for up to 4 riders;
- d. **XL:** Rides in SUVs for up to 6 riders;

- e. **Black SUV:** Rides in premium black SUVs with leather seats for up to 6 riders;
- f. **Access:** Riders in wheelchair-accessible vehicles. (Titouan Jehl, David Riege, Ex. 2018.)

AGO Response: Undisputed.

98. Drivers are free to decide which of these types of rides to provide subject to having the appropriate vehicle and/or skills. (Titouan Jehl; David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of driver's ability to provide certain ride types. Notwithstanding, it is undisputed that Lyft offers several different kinds of rides and drivers with the appropriate vehicle and/or skills can apply to drive within those categories. (AGO FF 86; Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron).

99. When riders request a ride, they can choose any of the available ride types. Lyft's matching algorithm will only suggest a pairing with cars that match the type of ride they are looking to find, or cars that have even more space or are even higher quality than the type the rider requested. (Titouan Jehl.)

AGO Response: Undisputed.

100. In addition to different types of cars, riders requesting rides are also able to select different wait times that Lyft's matching algorithm takes into account. (Titouan Jehl.)

AGO Response: Undisputed.

101. When available, riders can select a "Wait and Save" option where they will pay a slightly lower price in exchange for a potentially longer wait time, and a "Priority Pickup" where riders can opt for priority matching at a slightly higher price. (Titouan Jehl.)

AGO Response: Undisputed.

102. Lyft's matching pipeline runs a loop every 2 seconds to gather relevant information such as where active drivers are and what direction they are driving. (Titouan Jehl.).

AGO Response: Undisputed.

103. When a rider requests a ride, Lyft's matching algorithm generates possible matches, filters those matches, scores the potential matches, and then solves a mathematical problem selecting (potential) matches that optimize the value to riders, drivers, and Lyft. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that potential matches are intended to optimize the value to the riders and driver; Lyft's scoring objective maximizes profit for Lyft and maximizes the network effect to increase supply and demand of drivers and riders for generation of more revenue. Notwithstanding, it is undisputed that when a rider requests a ride, Lyft's matching algorithm generates possible matches, filters those matches, scores the potential matches, and then solves a mathematical problem selecting (potential) matches. (See AGO FF 125-149; Ant. Test. of Dan Leistra-Jones.)

104. Lyft's matching algorithm is sequential: it proposes to both drivers and riders a single match at a time. (Titouan Jehl; Catherine Tucker; Driver Witnesses.)

AGO Response: Undisputed.

105. Other intermediary platforms, including dating apps, also use sequential matching algorithms. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's business model. Notwithstanding, it is undisputed that some dating apps use sequential matching. (Ant. Test. of Lindsey Cameron; Ant. Test. of David Weil.)

106. Both drivers and riders value matches being proposed very quickly. (Titouan Jehl; Catherine Tucker; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's matching process and what riders and drivers value. Notwithstanding, it is undisputed that Lyft aims to propose ride matches quickly. (Ant. Test. of David Weil.)

107. Limiting the number of proposed matches offered at once is faster, more efficient, and safer in this context than giving users a list of simultaneous potential matches to choose from. (Titouan Jehl; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's matching process and what is "faster, more efficient, and safer." Notwithstanding, it is undisputed that Lyft understands its practice of limiting the number of rider-driver matches it makes is faster and more efficient. AGO FF 36, 125-149; Ant. Test. of Lindsey Cameron.

108. Lyft's matching algorithm eliminates the high costs that drivers and riders would incur in trying to find a match absent the platform, which economists refer to as "search costs." (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about services, and the characterization that Lyft reduces search costs between drivers and rides.

109. Riders using the Lyft platform in Los Angeles waited an average of 5.5 minutes for their drivers to arrive compared to approximately 24 minutes for the average taxi. (Catherine Tucker.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant.

110. A 2013 report on the Boston taxi industry found that trip requests made by customers for taxis over the phone or on an app were unfulfilled 22% of the time, and that wait times for requests that were filled were longer than 20 minutes more than 10% of the time. (Catherine Tucker.)

AGO Response: The statement is unsupported by the evidence identified by the Defendant.

111. When the Lyft driver app presents a Massachusetts driver with a potential match, the app displays the amount a driver will earn if the driver accepts the ride, the pickup and drop-off locations, and the estimated time and distance to complete the ride. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Disputed. (AGO FF 35-38, 173-189.)

112. When the Lyft driver app presents a Massachusetts driver with a potential match, the app also shows other ride attributes that help drivers determine whether the ride will be worthwhile to them—including the bonus that a driver would earn for completing a specific ride. (Esin Arsan Karasabun.)

AGO Response: Disputed. Prior to 2022, the Lyft App did not provide this information. The Lyft also does not disclose upfront to the driver Lyft's portion of the fees or the amount the rider is being charged. (AGO FF 150, 154, 161-168.)

113. A driver presented with a potential match has the option to accept or decline the match. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Undisputed.

114. Drivers can choose to have certain rides accepted by default or rejected by default. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Undisputed.

115. If the driver accepts a proposed match, the rider is notified of the match and the driver's location, estimated time of arrival, and rating. If the driver rejects the proposed match, they are presented with another proposed match, assuming sufficient riders are seeking drivers at that time and place. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the implication that Lyft always provides an additional match, solely on the basis of sufficient riders seeking drivers at that time and place. Notwithstanding, it is undisputed that if the driver accepts a proposed match, the rider is notified of the match and the driver's location, estimated time of arrival, and rating. (AGO FF 125-149.)

116. The rider can then reject the match by canceling the ride. As long as the rider cancels within 30 seconds of a driver accepting, the rider is not charged any fee. The rider is then presented with another proposed match, assuming sufficient riders are seeking drivers at that time and place. (Titouan Jehl, Ex. 2031.)

AGO Response: Undisputed.

117. Drivers and riders are each free to decline matches proposed by the algorithm. (Olivia Henry; Titouan Jehl; Paul Oyer; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that drivers are "free" to decline matches. Notwithstanding, it is undisputed that drivers may decline a ride request proposed by Lyft's algorithm. (Ant. Test. of Lindsey Cameron, AGO FF 190-196, 218-220, 226-228.)

118. A driver's access to the Lyft platform is not affected by how many or what percentage of rides they choose to accept. (Olivia Henry; Paul Oyer; David Riege; Driver Witnesses.)

AGO Response: Undisputed.

119. Drivers decline rides for numerous reasons, including the price; to avoid distances they consider too far; because they do not prefer to drive in specific locations; because they prefer to stop driving; or because they are currently busy. They have total control over the work they want to do. (Paul Oyer, David Riege; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the legal conclusion that drivers have total control over the work they want to do. Notwithstanding, it is undisputed that drivers decline rides for numerous reasons, including the price; to avoid distances they consider too far; because they do not prefer to drive in specific locations; because they prefer to stop driving; or because they are currently busy. (Ant. Test. of Lindsey Cameron; AGO FF 63-113).

120. An analysis of Lyft's internal data showed that, during the period between March 16, 2020 and June 14, 2021 (during the Massachusetts state of emergency for COVID-19) and in the period between June 15, 2021 and October 1, 2021, drivers in Massachusetts [REDACTED]
[REDACTED] (Paul Oyer.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant.

121. The Driver Design Team focuses on the design of the app for drivers looking to provide rides. (Esin Arsan Karasabun.)

AGO Response: Undisputed.

122. When making decisions about the design of the driver-facing app, the Driver Design Team works with other functions within the Driver team, including user experience researchers, to take into account feedback from drivers when making design decisions. (Esin Arsan Karasabun.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the design team relying upon drivers' feedback to make design decisions, without reference to the

Lyft business objectives of maximizing profits and network effect in its design decisions.

Notwithstanding, it is undisputed that the Driver Design Team works with other functions within the Driver team, including user experience researchers, to take into account feedback from drivers. (David Riege).

123. There are several features of the Lyft app that are designed to enable drivers to make choices that suit their individual preferences and manage how they want to use the app to provide rides. (Esin Arsan Karasabun.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that the app contains features that allow drivers to manage how they use the app to provide rides, because this proposed finding is premised upon a disputed characterization of drivers' control over the means and manner by which the drivers provide transportation services on behalf of Lyft for Lyft's customers. Notwithstanding, it is undisputed that there are features of the Lyft app that are designed to enable drivers to make choices about how they want to use the app to provide rides that may suit individual preferences. (AGO FF 33-39; Ant. Test. of Lindsey Cameron.)

124. For example, the Driver Design Team designed features in the driver app that enable drivers to quickly and safely see additional information about a ride before making a decision about whether to accept that ride. (Esin Arsan Karasabun.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant. Disputed further as to the characterization of the app as delegating to the driver decisions about the means and manner in which the driver provides services to Lyft's customers. (AGO FF 33-39; Ant. Test. of Lindsey Cameron)

125. Over time, Lyft has improved its algorithm to maximize drivers' ability to most productively use their time—for example, by sending a proposed match to a driver that is close to completing a prior trip (“forward dispatch”). (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose of the improvements of the matching algorithm. It is undisputed that one of the uses of Lyft's algorithm is to send a proposed match to a driver that is close to completing a prior trip (known as “forward dispatch”). (AGO FF 125-144.)

126. Lyft added a “Head to Destination” filter, which allows drivers to request to be offered only matches with riders going in the driver's preferred direction, and an “Arrive on Time” filter, which allows drivers to request to be offered only matches that get them to a specific destination at a particular time. (Esin Arsan Karasabun; Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the extent to which driver may use the filters, and the inference that Lyft offered these features as a means to provide drivers with additional control. (AGO FF 125-144; Lyft-00214597.)

127. Lyft later added an additional filter called “Stay Within Area,” that allows drivers to request to be offered only rides within a zone set by drivers. (Esin Arsan Karasabun; Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the extent to which driver may use the filters, and the inference that Lyft offered these features as a means to provide drivers with additional control. (AGO FF 125-144; Lyft-00214597.)

128. Location filters create the opportunity for drivers to make money during their commutes by providing a ride to someone traveling in the same direction. (Esin Arsan Karasabun; Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the inference that Lyft offered this filter as a means to provide drivers with additional control. Notwithstanding, it is undisputed that location filters allow drivers to make money during their commutes by providing a ride to someone traveling in the same location. (AGO FF 125-144.)

129. Some drivers in Massachusetts exclusively use the Lyft platform with location filters turned on as a way to make some extra money during their commute. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant.

130. These location filters allow drivers to control the location, direction, and timing of rides. (Esin Arsan Karasabun.)

AGO Response: Disputed. The Attorney General takes issue with the inference that Lyft offered these filters as a means to provide drivers with additional control. (AGO FF 125-144.)

131. [REDACTED]

[REDACTED] (Jeremy Bird.)

AGO Response: Disputed. (AGO FF 125-144; Ant. Test. of David Weil.)

132. Drivers have the option to enable a feature in the app that automatically queues rides, such that a ride is automatically accepted unless the driver takes an action to decline the ride, but drivers are not required to enable this feature. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Undisputed.

133. Swapping is a feature Lyft developed that increases efficiency by continuing to look for better potential matches after a driver has accepted a ride. Swapping rides benefits

drivers, riders, and Lyft by increasing driver utilization and decreasing wait times. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the benefit to drivers, riders, and Lyft. Notwithstanding, it is undisputed that swapping is a feature Lyft developed. (AGO FF 147.)

134. Drivers have the choice of whether to participate in the “swap” feature through a setting on the app. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the drivers’ choice to participate in the swap. (AGO FF 147.)

135. Drivers also have the option to sign up for Women+ Connect, which prioritizes matching women and nonbinary drivers and passengers. Once signed up, drivers have the ability to turn Women+ Connect on or off in their driving preferences at any time. (Esin Arsan Karasabun.)

AGO Response: Undisputed.

136. [REDACTED]

[REDACTED] (Jeremy Bird.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the benefit to drivers, riders, and Lyft. (AGO FF 125-144.)

137. Drivers also can choose to claim rides in advance by using the “Scheduled Rides” feature of the Lyft driver app. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the extent of drivers' ability to choose rides. Notwithstanding, it is undisputed that the "Scheduled Rides" feature presents rides to drivers in advance. (Ant. Test. of Lindsey Cameron.)

138. The "Scheduled Rides" feature enables riders to plan ahead by scheduling a ride up to 30 days in advance. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Undisputed.

139. Drivers can then view and reserve pickups that riders have requested to schedule in advance as many as 7 days before the requested pickup date, and can filter the requested rides by date, time, airport drop-off, and ride type. Because this matching process is not conducted in realtime and does not have the same safety concerns, drivers can select from a list of potential matches rather than being presented potential matches one at a time. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the extent of drivers' ability to choose rides. Notwithstanding, it is undisputed that the "Scheduled Rides" feature presents rides to drivers in advance. (Ant. Test. of Lindsey Cameron.)

140. Even after a driver has accepted a scheduled ride, the driver is able to cancel the ride at any time. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the inference that the driver can cancel a ride without consequence. (AGO FF 76-77, Ant. Test. of Lindsey Cameron.)

141. In addition to using the Lyft driver app to be offered proposed matches with riders looking for rides, drivers can navigate to a help center to access the Lyft support services, a summary of their earnings, and a weekly planner that displays a list of potential bonus or incentive opportunities along with a demand graph. (Esin Arsan Karasabun; Olivia Henry; David Riege.)

AGO Response: Undisputed.

142. After drivers choose to accept a ride, they choose what route to follow for the ride. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the inference that drivers are free from Lyft's direction and control over the routing decisions. (AGO FF 42, 45, 94, 109.)

143. The Lyft app offers for drivers' entirely voluntary use in-app navigation that provides drivers step-by-step directions on how to navigate to pick up and drop off riders. (Esin Arsan Karasabun; Titouan Jehl; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the legal conclusion that drivers are free from Lyft's direction and control over the routing decisions. (AGO FF 42, 45, 94, 109.)

144. Drivers are not required to use Lyft's in-app navigation or take the route that Lyft's in-app navigation recommends. (Olivia Henry; Titouan Jehl; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the inference that drivers are free from Lyft's direction and control over the routing decisions insofar as Lyft continues to monitor the drivers' routing decisions to see if the driver chose an inefficient route. Notwithstanding, it is undisputed that Drivers are not required to use Lyft's in-app navigation. (AGO FF 42, 45, 94.)

145. Drivers are free to use navigation tools besides Lyft's in-app navigation, including Google Maps and Waze, or their own knowledge of local routes and traffic. (Olivia Henry; Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the legal conclusion that drivers are free from Lyft's direction and control over the routing decisions insofar as Lyft continues to monitor the drivers' routing decisions to see if the driver chose an inefficient route.

Notwithstanding, it is undisputed that drivers may use navigation tools besides Lyft's in app navigation, including Google Maps and Waze, or their own knowledge of local routes and traffic. (AGO FF 42, 45, 94, 109.)

146. Drivers use navigation tools besides Lyft's in-app navigation, including Google Maps and Waze. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant. Notwithstanding, it is undisputed that drivers may use navigation tools besides Lyft's in app navigation, including Google Maps and Waze. (AGO FF 42, 45, 94, 109.)

147. Lyft provides drivers with information and suggestions regarding how to offer high quality service to riders. (Olivia Henry; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose for which Lyft provides such information. (AGO FF 80-83.)

148. Drivers are free to ignore Lyft's educational materials and suggestions regarding providing service for riders and are not penalized for doing so. (Olivia Henry; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law as to services, as well as the characterization of the consequences to drivers for ignoring information provided by Lyft. (AGO FF 63-75, 88-113; Ant. Test. of Lindsey Cameron.)

149. Drivers can choose, but are not required, to provide riders with phone chargers, water, mints, and other items to passengers to get better ratings and potentially earn more in tips. (Olivia Henry; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between riders and drivers. Notwithstanding, it is undisputed that drivers can provide riders with phone chargers, water, mints, and other items.

150. Drivers can, but are not required to, purchase signs for their cars that encourage riders to observe certain rules—like “Please don’t slam the doors,” or “Please don’t eat, drink, or litter.” (Paul Oyer.)

AGO Response: Undisputed.

151. Drivers care about riders’ experience and make a point to deliver riders good experiences during their rides. (Driver Witnesses.)

AGO Response: Disputed. The evidence identified by Defendant does not support the statement as to drivers broadly. The statement is unsupported by the evidence identified by the Defendant.

IV. LYFT RELIES ON DRIVER INCENTIVES BECAUSE IT DOES NOT CONTROL DRIVER BEHAVIOR

A. Lyft’s incentives and bonuses

152. Because Lyft cannot require drivers to drive at specific times or to accept specific rides, Lyft uses incentives to encourage drivers to accept more rides or provide rides at particular times or in particular areas. (Paul Oyer; David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that this is the only reason Lyft offers incentives. Notwithstanding, it is undisputed that Lyft does not require drivers to drive at specific times or accept specific rides. (AGO FF 190-216; Ant. Test. of Lindsey Cameron.)

153. Lyft generally uses two categories of incentives. Planned incentives are offers that Lyft makes to drivers to encourage them to drive at times or locations that Lyft predicts may be busy or where there is likely to be a market imbalance. (David Riege.)

AGO Response: Undisputed.

154. Planned incentives are planned in advance and communicated to drivers 1 to 10 days in advance. (David Riege.)

AGO Response: Undisputed.

155. Realtime incentives are incentives based on current market conditions such as a low supply of drivers or a high demand from riders. Lyft makes drivers aware of real-time incentives as they are offered. (David Riege.)

AGO Response: Undisputed.

156. Incentives help balance the marketplace, which benefits riders by enabling them to more easily find a ride and benefits drivers by providing higher earnings. (David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's purpose in providing incentives and promotions, and its effects on drivers. Notwithstanding, it is undisputed that Lyft provides incentives and promotions. (AGO FF 190-216; Ant. Test. of Cameron).

157. The Lyft driver app has several features that show a driver what potential "bonuses or incentives" they can choose to earn if they accept certain rides. (Esin Arsan Karasabun; Exs. 2017-2018.)

AGO Response: Undisputed.

158. The Lyft driver app includes a product called Bonus Zones, which displays a map of different locations where bonuses are available in realtime, indicated with colors. (Esin Arsan Karasabun; David Riege; Exs. 2017-2018.)

AGO Response: Disputed. The Attorney General takes issue with the term “product,” as well as the implications as to Lyft’s business model. Notwithstanding, it is undisputed that Bonus Zones is a feature of the Lyft App which displays different locations where bonuses are available in real-time, indicated with colors. (Ant. Test. of David Weil.)

159. The Bonus Zones not only inform drivers where they can choose to earn extra money nearby, but they also provide useful information to drivers about how busy a given region is. (Esin Arsan Karasabun; David Riege; Exs. 2017-2018.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the extent of the purpose for which Lyft provides Bonus Zones. Notwithstanding, it is undisputed that Bonus Zones provide information about locations where drivers can earn money. (Ant. Test. Lindsey Cameron.)

160. If a driver completes a ride in a Bonus Zone, the driver receives a “bonus” relative to how much they would ordinarily earn for completing the ride. (Esin Arsan Karasabun, David Riege.)

AGO Response: Undisputed.

161. When demand for rides significantly exceeds the number of drivers active on the platform, Lyft’s algorithms will set higher-than-usual prices for riders. This feature is called Prime Time, and is sometimes referred to as “surge pricing.” (David Riege.)

AGO Response: Undisputed.

162. Prime Time charges paid by riders are used to fund realtime driver incentives, including Bonus Zone payments. (David Riege.)

AGO Response: Disputed. (AGO FF 150-189; Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

163. A driver is not required to go to a Bonus Zone to look for a ride or accept a ride within a Bonus Zone. (David Riege.)

AGO Response: Undisputed.

164. Bonus Zones are presented to a driver regardless of whether the driver has accepted a ride within a Bonus Zone in the past. (David Riege.)

AGO Response: Undisputed.

165. Bonus Zones thus offer drivers information about where demand is high. (David Riege.)

AGO Response: Undisputed.

166. Incentives like Bonus Zones also incentivize drivers to drive where there are riders who demand rides. Balancing supply and demand is a crucial aspect of the overall value that Lyft's platform offers drivers—who expect the platform to offer them ride opportunities, which requires a balanced market. Too many drivers or too few riders both mean fewer ride opportunities. (David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between Lyft and drivers, as well as the implication that this is the full extent of Lyft's business model. Notwithstanding, it is undisputed that Lyft makes efforts to balance supply and demand. (AGO FF 190-216.)

167. Lyft generally offers promotions that guarantee drivers a minimum amount of earnings for completing a certain number of rides in a set amount of time to drivers who have not used the platform in more than 30 days. These promotions are designed to attract back driver customers who have not been recently active on the platform. (Paul Oyer; David Riege.)

AGO Response: Undisputed.

168. Lyft offers an incentive named Bonus Hour to drivers; those incentives offer drivers a fixed amount extra for each ride in a given hour. (David Riege.)

AGO Response: Undisputed.

169. Lyft offers bonuses called “Ride Challenges” to drivers if they complete a fixed number of rides within a set timeframe. (Paul Oyer; David Riege.)

AGO Response: Undisputed.

170. Lyft also offers bonuses to drivers who are new to the platform if they complete a certain number of rides within a set amount of time (called “multi-tiered bonuses”). (Paul Oyer; David Riege.)

AGO Response: Undisputed.

171. Companies typically offer incentive programs when they cannot control workers’ behavior. (Paul Oyer.)

AGO Response: Disputed. (AGO FF 190-196; Ant. Test. of Lindsey Cameron; Ant. Test. of David Weil.)

172. Other intermediaries also rely on incentives to encourage behavior among platform users that the platform cannot directly control. (Paul Oyer, Catherine Tucker.)

AGO Response: Disputed. (AGO FF 190-196; Ant. Test. of Lindsey Cameron; Ant. Test. of David Weil.)

173. For example, Airbnb cannot force homeowners to provide high quality service, but incentivizes good service by providing a “Super Host” designation—which gives hosts higher visibility on the platform and creates trust with guests—for hosts whose properties satisfy certain criteria. (Paul Oyer.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant. (Paul Oyer).

174. Although Lyft offers drivers various incentives that encourage certain behaviors—like driving at particular times, or for longer periods—drivers can and do reject ride requests anytime, without penalty. (Olivia Henry; Paul Oyer; David Riege; Driver Witnesses.)

AGO Response: Disputed. (AGO FF 221; Ant. Test. of Lindsey Cameron.)

175. Drivers are not penalized for ignoring the incentives Lyft offers—for example, by ignoring Bonus Zones when deciding when to drive—or for responding only to those incentives that the driver finds attractive or convenient. (Olivia Henry; David Riege; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of consequences to drivers for ignoring the incentives provided by Lyft. (Ant. Test. of Lindsey Cameron.)

176. Because drivers have the ability to reject rides and ignore bonuses, Lyft's incentive system is not equivalent to the kind of control characteristic of employment relationships. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of consequences to drivers for ignoring bonuses and with the conclusion of law as to the features of an employment relationship. (AGO FF 190-216; Ant. Test. of Lindsey Cameron.)

177. In general, independent contractors have incentives to work in areas and at times where there is greater demand for their services—as compared to areas and times where there is less demand for their services. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law as to independent contractor relationships.

B. The Lyft Rewards Program

178. Lyft offers drivers the opportunity to participate in a Lyft Rewards program, which is an incentive and bonus program. (Olivia Henry; Ex. 2009 at - 445.)

AGO Response: Disputed. (AGO FF 217-236; AG1731.)

179. Rewards systems are not associated with employment relationships. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

180. Rewards systems are frequently offered by consumer-facing companies—like credit cards and airlines—to reward loyal or valuable customers. (Paul Oyer; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with any inference that Lyft is a consumer-facing company with respect to its drivers. Notwithstanding, it is undisputed that rewards systems are offered by consumer-facing companies, like credit cards and airlines. (Ant. Test. Of David Weil.)

181. The Lyft Rewards program’s main purposes are to motivate drivers to use Lyft, especially when riders are requesting the most rides and to recognize and reward drivers who are improving the platform with superior service to riders. (Olivia Henry; Ex. 2063 at -948.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose of the Lyft Rewards program. (AGO FF 217-236.)

182. The Lyft Rewards program has four tiers: silver, gold, platinum, and elite. (Olivia Henry; Ex. 2009 at -447.)

AGO Response: Undisputed.

183. In Massachusetts, a driver's tier in the Lyft Rewards program is based on two factors: (1) points a driver has earned by driving during busy hours and (2) a driver's star rating (based on the last 100 rides). (Olivia Henry.)

AGO Response: Undisputed.

2 Drivers gain access to exclusive features and incentives based on their tier, including cash back on gas, extra daily uses of location filters, access to 24/7 phone support, and discounts on TurboTax Premium. (Olivia Henry.)

AGO Response: Undisputed.

V. LYFT PROVIDES DRIVERS AND RIDERS WITH INTERMEDIARY SERVICES

184. Lyft creates value by bringing together riders and drivers and by ensuring that both customer groups have positive and valuable interactions on the platform. (Jeremy Bird; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law regarding services, the characterization of the relationship between riders and drivers, and the characterization of the value for Lyft. (Ant. Test. of Dan Leistra-Jones; AGO FF 237-273.)

185. Lyft has established a "scaled network of users" brought together by its "robust technology platform (the 'Lyft Platform') that powers rides and connections everyday." (Jeremy Bird; AG1558 at 5).

AGO Response: Disputed. The Attorney General takes issue with the characterization of its business model. (Ant. Test. of David Weil.)

186. Businesses that provide two groups of users with services that enable them to transact with each other are known as intermediaries or platforms. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the inference that Lyft is just an intermediary or platform. Notwithstanding, it is undisputed that in some circumstances, a

business that provides two groups of users with services that enable them to transact with each other are known as intermediaries or platforms. (Ant. Test. of David Weil.)

187. Lyft was co-founded by Logan Green and John Zimmer. (Jeremy Bird.)

AGO Response: Undisputed.

188. While in college, Logan Green started a small car-sharing program on his campus. (Jeremy Bird.)

AGO Response: Undisputed.

189. Then, in 2008, Mr. Green and Mr. Zimmer came together to create Zimride, Lyft's precursor. (Jeremy Bird.)

AGO Response: Undisputed.

190. Zimride was a business that connected university students looking for rides home during the school breaks to find students with cars willing to provide them with rides. (Jeremy Bird.)

AGO Response: Undisputed.

191. In 2012, Zimride launched Lyft, which similarly focused on connecting drivers and riders, but did so in real time. (Jeremy Bird.)

AGO Response: Undisputed.

192. Lyft was created with the vision of expanding consumers' ability to find transportation instead of owning a car and driving alone. (Jeremy Bird.)

AGO Response: Undisputed.

193. Lyft aimed to reduce empty seats in cars by connecting drivers willing to provide rides to strangers with riders seeking transportation. (Jeremy Bird.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that this is the full extent of Lyft's business model. (AGO FF 125-145; Ant. Test. of David Weil.)

194. Zimride was officially reincorporated as Lyft Inc. in 2013 and began operating in the Commonwealth that year. (Jeremy Bird.)

AGO Response: Undisputed.

195. Platform economists have used ridesharing platforms as a canonical example of a two-sided platform or intermediary. (Catherine Tucker.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of David Weil.)

196. Businesses that function as intermediaries are extremely common in numerous sectors of the economy—including credit cards, video game consoles, automated clearinghouse (“ACH”) payment mechanisms, and internet marketplaces. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the inference or implication that Lyft is an “intermediary platform” and this characterization of Lyft’s business model. Notwithstanding, it is undisputed that there are businesses that function as intermediaries. (AGO FF 48-56, 63-87, 129-189; 318-321; Ant. Test. of David Weil.)

197. Popular examples of companies that operate intermediary platforms include Airbnb, Vrbo, eBay, Etsy, ClassPass, TaskRabbit, and OpenTable. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the inference or implication that Lyft is an “intermediary platform” and this characterization of Lyft’s business model. Notwithstanding, it is undisputed that there are businesses that function as intermediaries. (AGO FF 48-56, 63-87, 129-189; 318-321; Ant. Test. of David Weil.)

198. Businesses that function as intermediaries between one group of users who provide services to another differ in significant ways from businesses that provide services themselves. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the inference or implication that Lyft is an “intermediary platform” and this characterization of Lyft’s business model. Notwithstanding, it is undisputed that there are businesses that function as intermediaries. (AGO FF 48-56, 63-87, 129-189; 318-321; Ant. Test. of David Weil.)

199. Businesses that provide services generally control their inputs, including workers, and production processes. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the legal conclusion about control and services. (Ant. Test. of David Weil.)

200. For example, American Airlines controls and organizes all of the inputs and production required to fly passengers, such as planes and fuel, and hires and controls employees who help deliver those services—including by setting their schedules and tasks. (Catherine Tucker.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant.

201. Unlike one-sided businesses, intermediary platforms enable interactions between buyers and sellers, or other parties trying to find matches, rather than control inputs to produce services. (Catherine Tucker.)

AGO Response: The Attorney General takes issue with the inference or implication that Lyft is an “intermediary platform” and this characterization of Lyft’s business model. Notwithstanding, it is undisputed that there are businesses that function as intermediaries. (AGO FF 48-56, 63-87, 129-189; 318-321; Ant. Test. of David Weil.)

202. Interactions that are negative for users on either side of an intermediary platform deter users from joining or continuing to use the platform. (Catherine Tucker.)

AGO Response: The Attorney General takes issue with the inference or implication that Lyft is an “intermediary platform” and this characterization of Lyft’s business model. Notwithstanding, it is undisputed that there are businesses that function as intermediaries. (AGO FF 48-56, 63-87, 129-189; 318-321; Ant. Test. of David Weil.)

203. Intermediary platforms thus invest in improving quality, promoting trust in the platform, and facilitating positive interactions. (Catherine Tucker.)

AGO Response: The Attorney General takes issue with the inference or implication that Lyft is an “intermediary platform” and this characterization of Lyft’s business model. Notwithstanding, it is undisputed that there are businesses that function as intermediaries. (AGO FF 48-56, 63-87, 129-189; 318-321; Ant. Test. of David Weil.)

204. Lyft acts as an intermediary: it provides riders and drivers with a series of services that enable them to transact with each other. (Jeremy Bird; Catherine Tucker.)

AGO Response: Disputed. (AGO Proposed Findings of Fact, ¶¶ 48-56, 63-87, 129-189 and exhibits and testimony cited therein; Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

205. Both riders and drivers are customers of Lyft’s intermediary services. (Jeremy Bird; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about services, the relationship between Lyft and drivers, as well as to the characterization of Lyft’s business model. (AGO FF 48-56, 63-87, 129-189; Ant. Test. of Lindsey Cameron; Ant. Test. of David Weil.)

206. Lyft competes for both the business of both riders and drivers. In trying to attract driver customers, Lyft competes with any business that provides people with an alternative means of earning extra money. (Jeremy Bird; David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about services, the relationship between Lyft and drivers, as well as to the characterization of Lyft's business model. (AGO FF 318-321; Ant. Test. of David Weil.)

207. Lyft provides a number of services that make interactions efficient and increase trust among both drivers and riders, which enables them to transact with each other. (Olivia Henry; Titouan Jehl; David Riege; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about services, the relationship between Lyft and drivers, as well as to the characterization of Lyft's business model. (AGO FF 48-56, 63-87, 129-189; Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

B. Matching

208. Lyft's matching algorithm reduces search costs for riders and drivers to find each other by efficiently proposing pairings of riders with nearby drivers. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purposes of Lyft's matching algorithm. Notwithstanding, it is undisputed that Lyft matches riders and drivers. (AGO FF 125-149; Ant. Test. of David Weil.)

209. Lyft's matching algorithm filters matches—or pairs—to ensure a good experience for both riders and drivers; for example, by reducing the wait time for riders or the amount of driving to the destination for the driver. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose for filtering matches. Notwithstanding, it is undisputed that Lyft filters matches. (AGO FF 125-149; Ant. Test. of Lindsey Cameron.)

210. Lyft's matching algorithm reduces the time, energy, and cost required for riders and drivers to find one another and enables more transactions among riders and drivers.

(Titouan Jehl; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between riders, drivers, and Lyft, and the purposes of Lyft's matching. (AGO FF 19-32, 129-149; Ant. Test. of David Weil.)

211. Lyft's approach to matching seeks to maximize the total value generated across riders, drivers, and Lyft. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between riders, drivers, and Lyft, and the purposes of Lyft's matching. (AGO FF 125-149; Ant. Test. of David Weil.)

212. Lyft's matching algorithm accounts for more than simply the profit on each individual ride. The matching algorithm also accounts for the need to provide drivers and riders with an efficient and positive experience in order to continue attracting them to use the platform. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between riders, drivers, and Lyft, and the purposes of Lyft's matching. (AGO FF 125-149; Ant. Test. Of David Weil.)

213. Lyft's matching algorithm considers drivers' experiences, including "pain points" such as certain long pickups, and will filter out potential matches based on these pain points.

(Titouan Jehl.)

AGO Response: Undisputed.

214. Lyft regularly interviews panels of drivers and conducts studies to understand drivers' experiences and potential pain points and often tries to adjust the matching algorithm to account for this feedback. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's relationship with drivers. Notwithstanding, it is undisputed that Lyft has decision making authority to unilaterally adjust the matching algorithm, including based on feedback Lyft receives from drivers. (AGO FF 125-149.)

215. Similarly, Lyft regularly interviews panels of riders and conducts studies to understand riders' experiences and potential pain points in using the platform, and often tries to adjust its matching algorithm to take this feedback into account. (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's relationship with riders. Notwithstanding, it is undisputed that Lyft has decision making authority to unilaterally adjust the matching algorithm, including based on feedback Lyft receives from drivers. (AGO FF 125-149.)

216. [REDACTED]

[REDACTED]

[REDACTED] (Titouan Jehl.)

AGO Response: Disputed. Notwithstanding, it is undisputed that [REDACTED]

[REDACTED]

(AGO FF 125-145.)

217. [REDACTED]

[REDACTED] (Titouan Jehl.)

AGO Response: Undisputed.

218. [REDACTED]

[REDACTED]

[REDACTED] (Titouan Jehl.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between Lyft and drivers, the purpose of Lyft considering facts, as well as the implications regarding the nature of Lyft's business model. Notwithstanding, it is undisputed [REDACTED]. (AG FF ¶¶ 125-189 and exhibits and testimony cited therein.)

C. Trust and Safety

219. Trust and safety is particularly important for ridesharing, which only functions if drivers are willing to invite strangers into their cars and riders are willing to accept rides from strangers. This is a critical service that Lyft provides to both riders and drivers. (Catherine Tucker; Olivia Henry.)

AGO Response: Disputed. The Attorney General takes issue with the characterization and conclusion of law about services, as well as the implication regarding the nature of Lyft's business model. Notwithstanding, it is undisputed that Lyft has considered trust and safety to address the issue of accepting rides from strangers. (AGO FF ¶¶ 24-25, 65-75, 93, 114, 148, 125-145 and exhibits and testimony cited therein; Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

220. The Lyft platform provides several services to riders and drivers that promote trust and safety on the platform. These services include the sign-up process, Lyft's Community Guidelines, two-way ratings, a Help Center, an anonymized communication system, deactivation procedures, and a route-monitoring system. (Olivia Henry; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization and conclusion of law about services as to the listed features and the purposes behind the listed features. Notwithstanding, it is undisputed that Lyft implements features that promote trust and safety. (AGO Proposed Findings of Fact, ¶¶ 9-11 and exhibits and testimony cited therein; Ant. Test. of Lindsey Cameron; Ant. Test. of David Weil.)

221. During the process of sign-up to use the Lyft platform, potential drivers are required to pass a background check and complete a community safety education program. (Olivia Henry.)

AGO Response: Undisputed.

222. Drivers then undergo background checks on a bi-annual basis, and Lyft continually monitors for criminal convictions. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

223. Other intermediary platforms, like Airbnb and TaskRabbit, use background checks and criminal record checks. (Catherine Tucker.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant.

224. During the process of signing up to use the Lyft platform both driver and riders accept Terms of Service in which they agree to conduct themselves in accordance with Lyft's Community Guidelines. The Community Guidelines promote safety and trust within the Lyft community by providing guidelines for how drivers and riders should interact with each other. (Olivia Henry; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose of the Community Guidelines. (Ant. Test. of Lindsey Cameron, AGO Proposed FF, ¶¶ 64.)

225. Lyft prohibits drivers and riders from sub-contracting, which is also prohibited by the TNC Act and helps to ensure that all drivers who provide rides using Lyft have passed its screening processing. (Olivia Henry; Brendan Joyce; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the statement in so far as it contains a conclusion of law. Notwithstanding, it is undisputed that Lyft prohibits drivers from subcontracting, that riders cannot allow another to use their identify on the platform to obtain Lyft's transportation services, and that Lyft requires drivers to pass a screening process.

226. Lyft offers real-time route monitoring, which enhances safety for both drivers and riders. (Olivia Henry; Titouan Jehl; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose of Lyft's monitoring of the route taken during a ride. Notwithstanding, it is undisputed that Lyft monitors the route. (AGO Proposed FF, ¶¶ 88-90, 101-102, 110.)

227. The Lyft app provides communications services so that drivers and riders can contact each other as needed but do not have access to each other's personal phone numbers or email addresses. Lyft anonymizes communications to protect its users' privacy and safety and so that drivers will feel more comfortable having strangers ride in their car and riders will feel more comfortable riding in a stranger's car. (Olivia Henry; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the purpose of Lyft controlling communications. Notwithstanding, it is undisputed that riders and drivers must use the Lyft App to communicate with each other and that riders and drivers do not have access to one another's phone numbers. (AGO Proposed FF, ¶¶ 114-124 and exhibits and testimony therein.)

228. Lyft operates a 24-hour phone line staffed by customer service agents that can be called any time day or night concerning safety issues by drivers or riders. Those customer-

facing agents are trained to deal with safety and customer experience issues that may arise while users are on the platform. (Olivia Henry.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that drivers are Lyft's customers. Notwithstanding, it is undisputed that Lyft operates a 24-hour phone line staffed by customer service agents that can be called any time day or night concerning safety issues by drivers or riders; and it is undisputed that those agents are trained to deal with safety and customer experience issues that may arise while users are on the platform. (Ant. Test. of David Weil; Ant. Test of Dan Leistra-Jones; Ant. Test. of Lindsey Cameron.)

229. The Lyft app also has an Emergency Help feature, which provides access to ADT from inside the app for both riders and drivers. ADT then contacts the user or can contact 911 on their behalf. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

230. Lyft deactivates users—riders and drivers—when it believes that deactivation would help protect the safety of the platform and its other users. (Olivia Henry.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that protecting the safety of riders is the sole reason for Lyft to deactivate drivers. Notwithstanding, it is undisputed that Lyft deactivates riders and drivers. (AGO Proposed Findings of Fact, ¶¶ 28, 64, 75, 79, 92, 109 and exhibits and testimony cited therein.)

231. Other two-sided platforms, including Care.com and eBay, similarly deactivate platform users who violate platform policies or compromise other users' safety. (Catherine Tucker; Exs. 2109-2110.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's business model as well as the implication that Lyft is a two-sided platform similar to Care.com and eBay. Notwithstanding, it is undisputed that two-sided platforms, including Care.com and

eBay, deactivate platform users. (AGO Proposed Findings of Fact, ¶¶ 48-56, 63-87, 129-189 and exhibits and testimony therein; Ant. Test. of David Weil; Ant. Test. of Lindsey Cameron.)

232. Lyft's Safety Policy and Community Compliance team within its Safety Department handles safety complaints and is responsible for deciding whether a driver's account should be deactivated for safety risks. (Olivia Henry.)

AGO Response: Undisputed.

233. Lyft gives notice to drivers via email, SMS, chat, and/or a phone call prior to their account being deactivated. (Olivia Henry.)

AGO Response: Disputed. (Driver Witnesses, AG1615, AG1727).

234. If drivers are deactivated for safety reasons, there is an appeals process in Massachusetts where drivers can ask for their deactivation to be reviewed and potentially overturned. Drivers can access this feature through a button on the Lyft app. (Esin Arsan Karasabun; Olivia Henry; Brendan Joyce; Ex. 2064.)

AGO Response: Dispute. The statement is unsupported by the evidence identified by the Defendant for the relevant time-period. Notwithstanding, it is undisputed that Lyft currently has an appeals process for drivers for safety issues. (AGO Proposed Finding of Fact ¶ 112 and exhibits and Testimony cited therein; Ant. Test. of Lindsey Cameron.)

235. Lyft created a Smart Trip Check In feature that monitors rides for unusual activity, like long stops. If the feature detects unusual activity, Lyft affirmatively asks both riders and drivers if they need support. (Olivia Henry; Ex. 2065.)

AGO Response: Undisputed.

D. Ratings

236. Lyft's platform provides a two-way ratings system, which aims to increase trust between riders and drivers. (Olivia Henry; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose of the ratings system. Notwithstanding, it is undisputed that Lyft uses a ratings system for riders and drivers. (AGO Proposed Findings of Fact, ¶¶ 65-75 and exhibits and testimony cited therein; Ant. Test. of Lindsey Cameron; Ant. Test. of David Weil)

237. Other intermediary platforms—like Airbnb, TaskRabbit, Ebay and Etsy—use rating systems to promote positive behavior on the platform and increase trust. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's business model as well as the implication that Lyft is an intermediary platform similar to Airbnb, TaskRabbit, Ebay and Etsy. Notwithstanding, it is undisputed that some intermediary platforms use rating systems. (AGO Proposed Findings of Fact, ¶¶ 48-56, 63-87, 129-189 and exhibits and testimony cited therein; Ant. Test. of David Weil.)

238. At the end of a ride, drivers and riders each have the opportunity to rate one another on a scale of five stars. (Olivia Henry; Driver Witnesses.)

AGO Response: Undisputed.

239. Lyft does not control the rating that any rider provides for any driver for any ride. (Olivia Henry.)

AGO Response: Disputed. (AGO Proposed Findings of Fact, ¶ 68)

240. If a driver gives a rider a rating of 3 stars or less, the Lyft platform will not propose a match that pairs the driver with that rider again. (Olivia Henry.)

AGO Response: Undisputed.

241. If a rider gives a driver a rating of 3 stars or less, the Lyft platform will not propose a match that pairs the rider with that driver again. (Olivia Henry.)

AGO Response: Undisputed.

242. Drivers can see their star rating, which is based on their last 100 rides. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

243. In order to protect privacy, users cannot see the rating a driver or rider provide to one another for any individual ride. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that the sole purpose of anonymous ratings is to protect privacy. Notwithstanding, it is undisputed that users cannot see the rating a driver or rider provide to one another. (AGO Proposed Findings of Fact, ¶¶ 65-75, 88-128 and exhibits and testimony cited therein.)

244. When a rider is matched with a driver on the platform, the driver can see the rider's rating before choosing whether or not to accept the proposed match. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

245. If the driver accepts the proposed match, the rider can then see the driver's star rating. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

246. Riders and drivers can cancel a ride after seeing each other's star rating. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

247. In addition to the star ratings, riders and drivers can give feedback about the ride through flags that they can select in the app or through a comment box in the Lyft app. (Olivia Henry.)

AGO Response: Undisputed.

248. When a rider or driver submits a star rating, Lyft uses an algorithm to show the user flags that might identify the reason why the rider or driver provided that particular star rating. The flags shown can either be positive or negative. The user can then select any relevant flags in addition to the star rating. (Olivia Henry.)

AGO Response: Undisputed.

249. If a rating or flag indicates a safety concern, it may be routed to an agent on Lyft's Safety Team so that they can contact the user to obtain more information. (Olivia Henry.)

AGO Response: Undisputed.

250. Lyft addresses complaints that it receives from drivers and riders using its platform through a process within the app. (Olivia Henry.)

AGO Response: Undisputed.

251. If a driver's rating falls below a certain threshold, which represents approximately [REDACTED] their account can be permanently deactivated. Lyft deactivates users with extremely low ratings because low rankings generally indicate safety concerns or that the driver is negatively impacting other users' experiences with the platform. (Olivia Henry.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that the sole reasons for deactivation are safety concerns and other users experiences. Notwithstanding, it is undisputed that, if a driver's rating falls below a certain threshold, their account can be permanently deactivated. (AGO Proposed Findings of Fact ¶¶ 63-113; Ant. Test. of Lindsey Cameron.)

E. Customer Service

252. Lyft provides customer service to both drivers and riders to promote their use and enjoyment of the Lyft application and to increase trust and safety on the platform. Lyft acts as

an intermediary so that drivers providing rides to strangers and riders receiving rides from strangers know that they have recourse if something goes wrong on the trip. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose of Lyft's customer service and the characterization of Lyft's business model.

Notwithstanding, it is undisputed that Lyft provides customer service to both drivers and riders. (AGO Proposed Findings of Fact, ¶¶ 48-56, 63-87, 129-189 and exhibits and testimony cited therein.)

253. Both drivers and riders use the Help Center, which is a collection of articles about general customer service issues, questions, and issues. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

254. Both drivers and riders can contact Lyft's support team through the Help Center. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

255. Both drivers and riders can also contact Lyft through the phone, chat, or e-mail. (Olivia Henry.)

AGO Response: Undisputed.

256. The Lyft platform includes a 24-hour toll-free Critical Response Line that Lyft users, including drivers and riders, may contact regarding safety concerns. (Olivia Henry.)

AGO Response: Undisputed.

257. Lyft also operates a 24-hour phone line that drivers in certain tiers can call for non-safety related concerns. (Olivia Henry.)

AGO Response: Undisputed.

F. Pricing

258. One service that Lyft provides to drivers is a pricing algorithm that determines prices for rides facilitated by the Lyft platform. (David Riege.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law, as well as its characterization of Lyft's role in setting prices. Notwithstanding, it is undisputed that Lyft's pricing algorithm determines prices for rides provided to riders through Lyft platform. (AGO Proposed Findings of Fact, ¶¶ 156-172 and exhibits and testimony cited therein; Ant. Test. of David Weil.)

259. The pricing algorithm sets prices dynamically based on market conditions—including the number of available drivers and riders nearby at a given moment. (David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the superficial characterization of Lyft's pricing algorithm. Notwithstanding, it is undisputed that the pricing algorithm sets prices dynamically based on a variety of factors. (AGO Proposed Findings of Fact, ¶¶ 150-189 and exhibits and testimony cited therein, Ant. Test. of David Weil.)

260. Other intermediary platforms, including eBay, Airbnb, and Turo, suggest or set user pricing to help facilitate transactions. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's business model as well as the implication that Lyft is an intermediary platform similar to eBay, Airbnb, and Turo. Notwithstanding, it is undisputed that platforms like eBay and Airbnb may suggest or set user pricing. (AGO Proposed Findings of Fact, ¶¶ 48-56, 63-87, 129-189 and exhibits and testimony cited therein; Ant. Test. of David Weil.)

261. Amazon.com offers dynamic pricing tools to help sellers automatically charge prices for their products based on factors like competitors' prices. (Catherine Tucker; Ex. 2114.)

AGO Response: Undisputed.

262. Lyft's pricing algorithm enables riders to see the cost of a ride before requesting one. (David Riege.)

AGO Response: Undisputed.

263. Since 2022, Lyft has enabled drivers to see how much they will earn for a ride before they choose to accept the ride. That model is referred to as "Upfront Pay." (Esin Arsan Karasabun; David Riege; Ex. 2066.)

AGO Response: Undisputed.

264. Prior to 2022, driver payment was calculated based on a "rate card," which set standard rates based on time and mileage. Although drivers knew the rate card values that applied, they did not see estimates of their total payment for a ride before choosing to accept it. (David Riege.)

AGO Response: Undisputed.

265. Compared to the rate card system, "Upfront Pay" gives drivers more information about the payment they will receive from a given ride at the moment Lyft offers the potential ride. (David Riege.)

AGO Response: Undisputed.

266. Lyft's pricing algorithm enables it to calibrate pricing based on real-time supply (of drivers) and demand (for rides). (David Riege.)

AGO Response: Undisputed.

267. [REDACTED]

[REDACTED]

[REDACTED] (David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the implication that this is the full extent of Lyft's business model. Notwithstanding, it is undisputed that [REDACTED]
[REDACTED] (AGO Proposed Findings of Facts, ¶¶ 150-189 and exhibits and testimony cited therein, Ant. Test. of David Weil, Lyft 30(b)(6) Testimony of David Riege.)

268. [REDACTED]
[REDACTED]
[REDACTED] (David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's pricing algorithm. Notwithstanding, it is undisputed that [REDACTED]
[REDACTED]
[REDACTED] (AGO Proposed Findings of Fact, ¶¶ 162, 171-172 and exhibits and testimony cited therein; Ant. Test. of David Weil.)

269. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's pricing algorithm. Notwithstanding, it is undisputed that [REDACTED]
[REDACTED]
[REDACTED] (AGO Proposed Findings of Facts, ¶ 155, 173-179 and exhibits and testimony cited therein; Ant. Test. of David Weil.)

270. Lyft's pricing algorithms make transactions on the platform more efficient for both drivers and riders and increase the number of completed rides. (David Riege; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's pricing algorithm, and the implication that the pricing algorithm only takes into account efficiency for drivers as well as increasing the number of completed rides. Notwithstanding, it is undisputed that the pricing algorithm aims to increase the number of completed rides to generate revenue for Lyft. (AGO Proposed Findings of Fact ¶¶ 150-189 and exhibits and testimony cited therein; Ant. Test. of David Weil.)

271. Lyft's pricing algorithms help drivers and riders overcome information problems they would otherwise face because neither group can easily assess the overall number of drivers and riders nearby at a given time. Because reasonable fares depend on constantly changing conditions like traffic, wealth, and supply and demand, it would be difficult and inefficient for drivers and riders to calculate reasonable fares in real time. (David Riege; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between riders, drivers, and Lyft and the characterization of the purpose of Lyft's pricing algorithms. (AGO Proposed Findings of Fact ¶¶ 150-189 and exhibits and testimony cited therein; Ant. Test. of David Weil.)

272. For both drivers and riders, Lyft's pricing algorithms eliminate the need to negotiate fares, which would be more time-consuming and inefficient and would reduce the number of completed rides. (Catherine Tucker.)

AGO Response: Dispute. The Attorney General takes issue with the characterization of the relationship between riders, drivers, and Lyft and the characterization of the purpose of Lyft's

pricing algorithms. (AGO Proposed Findings of Fact ¶¶ 150-189 and exhibits and testimony cited therein; Ant. Test. of David Weil.)

273. By eliminating the need to negotiate fares, Lyft's pricing algorithms also reduce potential discomfort for both drivers and riders—and give both parties confidence that the prices of rides facilitated through Lyft's platform reflect market conditions. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between riders, drivers, and Lyft and the characterization of the purpose of Lyft's pricing algorithms. (AGO Proposed Findings of Fact ¶¶ 150-189, and exhibits and testimony cited therein.)

274. Without an automatic pricing algorithm, it would be more difficult for drivers and riders to set prices and agree on the price of rides, which would reduce the number of completed rides. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the relationship between riders, drivers, and Lyft, as well as to the implications about Lyft's business model. Notwithstanding, it is undisputed that Lyft sets the price of rides. (Ant. Test. of David Weil.)

275. In 2020-2021, Uber experimented with a policy change in California that allowed drivers to set their own price based on a multiplier of Uber's recommended price. (Catherine Tucker.)

AGO Response: Disputed. The cited evidence does not support this proposed finding of fact.

276. During that experiment, drivers declined over 80% of ride requests, and the number of riders unable to find a ride increased sevenfold. (Catherine Tucker.)

AGO Response: Disputed. The evidence cited does not support this proposed finding of fact.

277. In Massachusetts, surge pricing was banned under the Massachusetts State of Emergency. (Brendan Joyce; Catherine Tucker.)

AGO Response: Undisputed.

278. During May and June 2021, when the ban was still in effect, riders faced long wait times or were unable to find rides, especially in less central areas. (Brendan Joyce; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the implied causal relationship between the surge pricing ban and longer wait times or inability to find rides.

G. Payments

279. Lyft processes transactions involving drivers and riders on the platform through Lyft's contracted payment processing systems. (David Riege.)

AGO Response: Undisputed.

280. Lyft uses payment processing systems that are secure and automated. (David Riege; Catherine Tucker.)

AGO Response: Undisputed.

281. Lyft's payment processing system offers drivers protection from fare evasion and robbery, which are concerns for cash payment systems. (David Riege; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of Lyft's payment process. Notwithstanding, it is undisputed that Lyft's processes payments for rides. (AGO FF 48-52).

282. Lyft's payment processing system also offers security and predictability for riders. (David Riege; Catherine Tucker.)

AGO Response: Undisputed.

283. Requiring riders and drivers to use Lyft's payment processing infrastructure ensures that Lyft can efficiently collect fees from customers. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the relationship between riders, drivers, and Lyft, as well as the implication that this is the extent of Lyft's business model. Notwithstanding, it is undisputed that Lyft processes payments for rides. (AGO FF 48-52; Ant. Test. of David Weil).

284. Lyft recognizes as revenue the fees and commissions owed to Lyft from drivers, and not the gross amount collected from riders. (AG1559.)

AGO Response: Undisputed.

285. Intermediary platforms typically offer, and require the use of, centralized payment processing systems, to increase user trust and efficiently administer platform fees. (Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the purpose for centralized processing systems. Notwithstanding, it is undisputed that companies operating an intermediary platform offer, and require the use of, centralized payment processing systems.

286. Examples of intermediary platforms that require users to use the platform's payment processing system include Etsy, eBay, Airbnb and the PlayStation Store. (Catherine Tucker; Ex. 2113; Ex. 2117; Ex. 2118; Ex. 2121.)

AGO Response: Undisputed.

VI. LYFT ADVERTISES ITS SERVICES TO DRIVERS AND RIDERS

287. Lyft markets its services to users and potential users on both sides of its platform. (LYFT2396; Dan Friedman, David Riege, Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about services, and the characterization of the relationship with riders, drivers, and Lyft, as well as the implication about its business model. Notwithstanding, it is undisputed that Lyft markets to riders and drivers. (AGO Proposed Findings of Fact, ¶¶ 305-440 and exhibits and testimony cited therein; Ant. Test. of Chris Arning; Ant. Test. of Ilana Bryant.)

288. Lyft's marketing and branding materials highlight to users and potential users the benefits of the Lyft platform and the services provided by the Lyft platform to its users. (Dan Friedman, Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the conclusion of law about services, and the characterization of the relationship with riders, drivers, and Lyft, as well as the implication about its business model. Notwithstanding, it is undisputed that Lyft markets to riders and drivers. (Attorney General's Proposed Findings of Fact, ¶¶ 305-440 and exhibits and testimony cited therein; Ant. Test. of Chris Arning; Ant. Test. of Ilana Bryant).

289. Lyft's marketing and branding materials highlight the safety, convenience, and reliability of using the Lyft platform for riders and drivers. (Dan Friedman, Catherine Tucker.)

AGO Response: Undisputed.

290. Lyft's marketing and branding materials highlight the way that the Lyft platform reduces frictions for riders and drivers and ensures trust among riders and drivers. (Dan Friedman, Catherine Tucker.)

AGO Response: Disputed. (Ant. Test. of Ilana Bryant; Ant. Test. of Chris Arning.)

291. Lyft's marketing and branding materials target drivers (among other users), including by offering incentives and other bonuses to attract them to use the Lyft platform at certain times and in certain locations, in part because Lyft does not require drivers to drive at certain times or in certain locations. (Dan Friedman; David Riege; Catherine Tucker.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that “Lyft does not require drivers to drive at certain times or in certain locations.” Notwithstanding, it is undisputed that Lyft offers incentives and other bonuses to influence driver behavior. (Ant. Test. of Lindsey Cameron.)

292. Advertising, marketing, and advocacy related to rides and transportation are expected from a two-sided platform like Lyft that facilitates rides within the transportation sector. (Catherine Tucker.)

AGO Response: Disputed. (Ant. Test. of David Weil; Ant. Test. of Chris Arning.)

293. Advertising, marketing, and advocacy related to safety, convenience, and reliability are expected from a two-sided platform like Lyft that facilitates rides within the transportation sector. (Catherine Tucker.)

AGO Response: Disputed. (Ant. Test. of David Weil; Ant. Test. of Chris Arning testimony).

294. Advertising, marketing, and advocacy related to reducing frictions and ensuring trust are expected from any two-sided platform, including one like Lyft that facilitates rides within the transportation sector. (Catherine Tucker.)

AGO Response: Disputed. (Ant. Test. of David Weil; Ant. Test. of Chris Arning.)

295. Two-sided platforms often advertise using themes related to the type of transactions that occur on the platform and the sector in which they operate. (Catherine Tucker.)

AGO Response Disputed. (Ant. Test. of David Weil; Ant. Test. of Chris Arning.)

296. For example, eBay runs advertisements related to the products that one set of users (sellers) are selling to another set of users (buyers). (Catherine Tucker.)

AGO Response: Disputed. (Ant. Test. of Chris Arning.)

297. eBay Motors, a specialized section of digital marketplace eBay, includes an image of a braking system with the tagline, “The right parts at the right prices.” (LYFT2395; Catherine Tucker.)

AGO Response: Undisputed.

298. Airbnb, a platform that connects hosts offering accommodations and guests searching for short-term stays, includes images of homes, similar to how Hilton features its property on ad campaigns. (LYFT2395; Catherine Tucker.)

AGO Response: Disputed. The statement is not supported by the evidence identified by the Defendant.

299. Rover, a platform that connects pet care service providers and pet owners, includes images of dogs in its ads, as a typical dog-walking company would be expected to do. (LYFT2395; Catherine Tucker.)

AGO Response: Disputed. The evidence identified does not support the statement, “as a typical dog-walking company would be expected to do.” Notwithstanding, it is undisputed that Rover is a platform that connects pet care service providers and pet owners, and includes images of dogs in its ads.

300. Etsy, a platform that brings together online sellers of creative products and buyers, includes images of products being made by hand, as a craft store would be expected to do. (LYFT2395; Catherine Tucker.)

AGO Response: Disputed. The evidence cited does not support the remaining statement, “as a craft store would be expected to do.” Notwithstanding, it is undisputed that Etsy is a platform that brings together online sellers of creative products and buyers.

301. Turo, a platform that connects hosts willing to rent out their cars and guests seeking car rentals, includes images of cars, roads, travel destinations, and users driving, as a rental car company would be expected to do. (Catherine Tucker.)

AGO Response: Disputed. The cited evidence does not support the proposed finding.

VII. DRIVER COMPENSATION

302. In 2023, on average, Lyft drivers earned roughly 88% of rider payments, after external fees like local taxes. (Jeremy Bird.)

AGO Response: Disputed. The statement is not supported by the evidence identified by the Defendant.

303. Lyft guarantees that drivers will earn a minimum of 70% of rider payments on the platform, after external fees like local taxes; if drivers earn less than 70% of the total rider cost, Lyft pays them the difference at the end of each week. (Jeremy Bird.)

AGO Response: Disputed. The cited evidence does not support the proposed finding.

304. The money drivers earn using the Lyft platform is generally deposited in their bank accounts weekly. (David Riege.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the payment process. To the extent this statement is an interpretation of a term or terms in Lyft's Driver Addendum, it is a question of law for the Court. Notwithstanding, it is undisputed that Lyft collects payments from riders and remits a portion of the payment to drivers. (AGO FF 48-56, 155-160, 173-189).

305. Drivers can opt to receive payments more quickly by using Lyft's "Express Pay" option or Lyft Direct (a debit card and bank account designed for Lyft drivers.) (David Riege.)

AGO Response: Undisputed.

306. Lyft's "Express Pay" option allows drivers to cash out their earnings on demand.

(David Riege.)

AGO Response: Undisputed.

307. Drivers can also choose to open a Lyft Direct account, which is a debit card and bank account that gives them access to instant payouts after every ride with no transfer fee.

(David Riege.)

AGO Response: Undisputed.

308. In addition to the payment drivers receive for completed rides, drivers can also receive tips from customers. (David Riege; Olivia Henry; Driver Witnesses; Exs. 2020-2021).

AGO Response: Undisputed.

309. Drivers keep 100% of the tips they earn. (David Riege; Exs. 2020-2021.)

AGO Response: Undisputed.

310. Riders can submit tips through the Lyft app's payment system or directly to the driver, in cash. (David Riege.)

AGO Response: Undisputed.

311. Drivers can earn more tips by providing better customer service, and Lyft provides educational materials to help drivers understand how to maximize their earnings by providing better services to riders. (Olivia Henry; David Riege; Catherine Tucker; Exs. 2020-2021.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that Lyft provides educational materials solely to help drivers understand how to maximize their earnings by providing better services and not to increase Lyft's profit. Notwithstanding, it is undisputed that drivers can earn more tips by providing better customer service. (AGO Proposed Findings of Fact, ¶¶ 80-83 and exhibits and testimony cited therein).

312. Drivers attempt to offer better customer service to earn more tips—for example, by helping customers with bags, providing phone chargers for riders to use during the ride, or by simply going out of their way to provide riders with a good experience. (Driver Witnesses.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant.

313. In addition to the upfront fare that a driver is paid for providing a ride and any tip the driver earns, drivers receive additional payments for any tolls or other similar charges, and for the full amount of the incentives or bonuses that the driver earns. (David Riege; Ex. 2010.)

AGO Response: Undisputed.

314. Nationally, Lyft estimates that drivers in the bottom quintile of Lyft drivers by hourly earnings earn \$17.46 (net of Lyft's commission and fees) per hour spent driving to passengers or with a passenger in the car, after expenses. (Jeremy Bird.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant.

315. Nationally, Lyft estimates that drivers in the top quintile of Lyft drivers by hourly earnings earn \$33.09 (net of Lyft's commission and fees) per hour spent driving to passengers or with passengers in the car, after expenses. (Jeremy Bird.)

AGO Response: Disputed. The statement is unsupported by the evidence identified by the Defendant.

VIII. AN EMPLOYMENT MODEL IS LIKELY NOT FEASIBLE FOR LYFT AND WOULD HARM DRIVERS, RIDERS, AND THE PUBLIC, IN ANY CASE.

316. Given that Lyft's business model is based on the ability to dynamically respond to supply and demand and its drivers highly value flexibility, it is not clear that Lyft would be able

to restructure its business model in Massachusetts to reclassify drivers as employees. (Jeremy Bird.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott).

317. If Lyft were required to reclassify drivers as employees, it is likely that Lyft will be forced to cease rideshare operations in Massachusetts. (Jeremy Bird.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott).

318. If Lyft were to stop operating in Massachusetts, then tens of thousands of drivers would no longer have access to the flexible earnings opportunities available to them through the Lyft platform. (Jeremy Bird; Paul Oyer; Ex. 2100.)

AGO Response: This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott).

319. Additionally, millions of riders would no longer be able to use the Lyft platform to get reliable rides on-demand. (Jeremy Bird; Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott).

320. The unavailability of the Lyft platform in Massachusetts would have a disproportionate impact on riders who live in areas underserved by traditional public transportation and taxi services. (Jeremy Bird; Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott).

321. At a minimum, requiring Lyft to reclassify drivers as employees would require Lyft to build a new business in Massachusetts completely different from the business it operates in the rest of the United States and Canada. (Jeremy Bird.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott).

322. The management and administrative costs associated with hiring workers as employees would also require Lyft to provide fewer and less flexible driving opportunities to drivers than its platform currently facilitates. (Jeremy Bird; Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott).

323. Lyft's costs would include quasi-fixed costs, which are incurred by the business for each employee regardless of how much that employee works. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. of James Parrott.).

324. Lyft's quasi-fixed costs would include administrative costs, and payroll management costs, all of which are proportional to the number of employees. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. of James Parrott.)

325. If Lyft were to employ drivers, part of its costs would be a function of the number of drivers and not just the number of hours worked by the drivers. (Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott; Ant. Test. of David Weil)

326. Accordingly, if Lyft were to employ all of the drivers who are eligible to use the Lyft platform today, then Lyft's quasi-fixed costs would significantly increase. (Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott; Ant. Test. of David Weil.)

327. Under an employment model, Lyft would lose money on drivers who decide to work less than the amount needed for Lyft to recoup its quasi-fixed costs for employing them. (Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of James Parrott; Ant. Test. of David Weil.)

328. Under the current model, drivers in Massachusetts can use the Lyft platform as much or as little as they want, and provide rides for an average of [REDACTED] per week, even ignoring the weeks they choose not to drive at all. (Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant. (Ant. Test. of Lindsey Cameron; Ant. Test. of James Parrott.)

329. If Lyft were required to classify drivers as employees, Lyft would have strong incentives to hire as few drivers as possible and would have strong incentives to maximize profits by requiring a much smaller number of drivers to work for more hours per week. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. of James Parrott, Ant. Test. of David Weil.)

330. Requiring a much smaller number of drivers to work for more hours per week would harm many drivers because there would be a consolidation of earnings opportunities that

can be found on the Lyft platform to fewer drivers than use the service today—depriving many drivers of existing economic opportunity. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. of James Parrott, Ant. Test. of David Weil.)

331. If Lyft were required to classify drivers as employees, then Lyft would also have strong economic incentives to reduce the current flexibility and require drivers to work assigned shifts with minimum hours. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. of James Parrott, Ant. Test. of David Weil.)

332. Businesses generally do not find it economical to pay workers not to work. (Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of businesses generally and what is encompassed by work.

333. Thus, virtually all businesses with hourly employees require them to work specific hours. (Paul Oyer.)

AGO Response: Disputed. The statement is not supported by the evidence identified by the Defendant.

334. Given that demand for rides is higher on certain days and times, if Lyft were required to classify drivers as employees, Lyft would have to arrange shifts such that many drivers would be required to work during those peak hours. (Jeremy Bird; Paul Oyer.)

AGO Response: Disputed. The Attorney General takes issue with the characterization that many drivers would be required to work during those peak hours. It is undisputed that Lyft likely would need to schedule and would be capable of scheduling more drivers on certain days and times when demand for rides is higher. (AGO Proposed Findings of Fact, ¶¶ 190-236 and exhibits and testimony cited therein, Ant. Test. of James Parrott.)

335. This sort of shift arrangement is typical for many businesses that face variable demand, such as restaurants and retail stores that often use split shifts or other irregular schedules. (Paul Oyer).

AGO Response: Disputed. Many businesses need to schedule and are capable of scheduling more workers on certain days and times when demand is higher. (Ant. Test. of James Parrott, Ant. Test. David Weil.)

336. Drivers would be harmed by a minimum hours requirement. (Paul Oyer; Driver Witnesses)

AGO Response: Disputed. (Ant. Test. of James Parrott.)

337. A system of required shifts would harm drivers because they would lose the flexibility they currently have to drive when and how much they prefer. (Jeremy Bird; Paul Oyer; Driver Witnesses.)

AGO Response: Disputed. (Ant. Test. of James Parrott.)

338. The majority of drivers in Massachusetts drive for 10 hours a week or less, suggesting that many prefer not to work significantly more hours. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. of James Parrott.)

339. The vast majority of drivers report they would no longer use the Lyft platform or would use it less if they were required to drive during specific shifts at predetermined times. (Deborah Jay; Driver Witnesses.)

AGO Response: Disputed. The Attorney General takes issue with the evidence identified as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

340. Only about one-fifth of drivers who use the Lyft platform in Massachusetts report that they would use the Lyft platform the same amount if they were required to drive during specific shifts at predetermined times. (Deborah Jay.)

AGO Response: Disputed. The Attorney General takes issue with the evidence identified as supporting the conclusion that drivers generally engage in this practice. Notwithstanding, it is undisputed as to the time period of Dr. Jay's study.

341. If Lyft were required to reclassify drivers as employees, riders would experience higher prices, reduced number of rides, and longer wait times. (Jeremy Bird; Paul Oyer.)

AGO Response: Disputed. (Ant. Test. James Parrott.)

342. If Lyft were required to reclassify drivers as employees, then Lyft would have a strong incentive to increase prices for riders to cover the additional quasi-fixed employment costs. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. James Parrott.)

343. If drivers were scheduled for fixed shifts, it would be much more difficult for Lyft to dynamically adjust supply and demand, meaning that drivers would wait a longer time to find rides. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. James Parrott.)

344. Implementing fixed shifts would limit Lyft's ability to balance supply and demand flexibly in real-time, likely leading to higher wait times for drivers and riders. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. James Parrott.)

345. Lyft also would have strong economic incentives to pass along the cost of higher driver idle time to riders. (Paul Oyer.)

AGO Response: Disputed. (Ant. Test. James Parrott.)

346. Increased prices and longer wait times would disproportionately affect certain groups of riders who are more dependent on ride-sharing platforms like Lyft, such as those in low-income neighborhoods or those that live in less dense areas. (Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant.

347. In many low-income neighborhoods, ridesharing apps including Lyft have significantly expanded the ability of riders and drivers to connect. (Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant.

348. 52% of rides in Massachusetts start or end in low-income areas and 50% of riders have relied on Lyft when public transit was not operating. (Jeremy Bird; Paul Oyer; Ex. 2069.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant.

349. Low-income riders are three times more likely to use Lyft for commuting to and from school. (Jeremy Bird; Paul Oyer.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant.

350. The disruptions experienced during the COVID-19 pandemic provide an example of the harm that riders, and the Commonwealth's transportation infrastructure, could experience if Lyft rideshare transportation were less available or not available in the Commonwealth. (Jeremy Bird; Brendan Joyce; Paul Oyer, Catherine Tucker.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant.

351. From March 10, 2020 and June 15, 2021, Lyft was not allowed to increase the price of a ride in Massachusetts when there was higher rider demand and low supply of drivers available, which made it more difficult for Lyft to balance supply and demand. (Brendan Joyce, Paul Oyer, Catherine Tucker.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant.

352. As a result, during the time period between March 10, 2020 and June 15, 2021, riders had difficulties finding rides, either experiencing very long wait times or not being able to get rides altogether. (Brendan Joyce, Paul Oyer, Catherine Tucker.)

AGO Response: Disputed. This statement is unsupported by the evidence identified by the Defendant.

IX. THE TNC ACT REGULATES LYFT’S BUSINESS AND CONDUCT TOWARD DRIVERS.

353. The Transportation Network Companies Act (the “TNC Act”), *see* Mass. Gen. Laws 159A1/2 § 1 *et seq.*, and regulations promulgated under that act (the “TNC Regulations”), *see* 220 C.M.R. § 274.00 *et seq.*, govern ridesharing companies (like Lyft) and ridesharing drivers (like drivers who use the Lyft platform) in Massachusetts. (Ex. 2097 ¶¶ 3, 5.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

354. Under the TNC Act, the Department of Public Utilities (“DPU”)—specifically, the TNC Division of the DPU, which was created by the TNC Act—has the authority to promulgate rules and regulations to implement, administer, and enforce the TNC Act. Mass. Gen. Laws ch. 25 § 23(a) (establishing TNC Division); Mass. Gen. Laws 159A1/2 § 2(a) (“The division shall

have jurisdiction over transportation network companies to ensure the safety and convenience of the public, as expressly set forth in this chapter.”); *id.* § 11 (“The division shall promulgate regulations necessary for the implementation, administration and enforcement of this chapter.”). (Ex. 2097 ¶¶ 3, 5.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

355. Pursuant to that authority, the DPU has promulgated an extensive set of regulations that govern the operations of TNC companies and TNC drivers in Massachusetts. 220 C.M.R. § 274.00 *et seq.* (Ex. 2097 ¶¶ 4, 5.)

AGO Response: Disputed. The Attorney General takes issue with the characterization of the regulations being “extensive” and further disputes that the statement is not supported by the evidence cited by the Defendant.

356. Lyft is a “transportation network company” as that term is used in the TNC Act. Mass. Gen. Laws ch. 159A1/2 § 1 (defining “transportation network company” as “a corporation, partnership, sole proprietorship or other entity that uses a digital network to connect riders to drivers to pre-arrange and provide transportation”); 220 C.M.R. § 274.02 (similar).

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

357. The Lyft platform is a “digital network” as that term is used in the TNC Act. Mass. Gen. Laws ch. 159A1/2 § 1 (defining “digital network” as “any online-enabled application, software, website or system offered or utilized by a transportation network company that enables pre-arranged rides with transportation network drivers”); 220 C.M.R. § 274.02 (similar).

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

358. Drivers who use the Lyft platform are “transportation network drivers” as that term is used in the TNC Act. Mass. Gen. Laws ch. 159A1/2 § 1 (defining “transportation network driver” as “a driver certified by a transportation network company”); 220 C.M.R. § 274.02 (similar).

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

359. Drivers who use the Lyft platform provide pre-arranged rides to transportation network riders through Lyft’s platform. *See* Mass. Gen. Laws ch. 159A1/2 § 1 (defining “transportation network rider” as “a passenger in a pre-arranged ride provided by a transportation network driver . . .”); *id.* (defining “transportation network services” as “the offering or providing of pre-arranged rides for compensation or on a promotional basis to riders or prospective riders through the transportation network company’s digital network . . .”); 220 C.M.R. § 274.02 (similar).

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law. Notwithstanding, it is undisputed that drivers who use the Lyft platform provide rides to Lyft riders through the Lyft platform.

360. TNC Act and TNC Regulations govern the operations of Lyft and drivers who use the Lyft platform in Massachusetts. (Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

361. The TNC Act and TNC Regulations impose requirements on Lyft that are distinct from those imposed on drivers who use the Lyft platform. (Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

362. The requirements imposed on drivers who use the Lyft platform govern the conduct of such drivers when they are transporting riders. (Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

363. The TNC Act prohibits drivers using the Lyft application from soliciting, accepting, arranging, or providing transportation other than in the form of a pre-arranged ride using a digital network, including by driving on public streets in search of or soliciting hails from people on the street. Mass. Gen. Laws ch. 159A1/2 § 3; *see also id.* § 7(c) (drivers who solicit, accept, arrange, or provide rides through street hails “shall be deemed to have committed a civil motor vehicle infraction” and may be issued a citation); 220 C.M.R. § 274.04(2). (Ex. 2097 ¶ 29.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

B. TNC Permit

364. The TNC Act and TNC Regulations require Lyft to have a permit to operate in Massachusetts. Mass. Gen. Laws ch. 159A1/2 § 3(b); 220 C.M.R. § 274.03(1)(a). (Ex. 2097 ¶ 9.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

365. After the TNC Act was enacted, Lyft applied for a TNC Permit. (Ex. 2097 ¶ 8.)

AGO Response: Undisputed.

366. On September 17, 2018, Lyft submitted its final documentation in support of its permit application to the DPU. (Ex. 2097 ¶ 8.)

AGO Response: Undisputed.

367. The DPU approved Lyft's permit on February 13, 2019. (Ex. 2097. ¶ 8.)

AGO Response: Undisputed.

368. Lyft is currently operating under a valid DPU permit. (Ex. 2097 ¶ 8.)

AGO Response: Undisputed.

369. The most recent DPU permit was issued on June 17, 2023. (Ex. 2097. ¶ 8.).

AGO Response: Undisputed

370. The TNC Act and TNC Regulations require Lyft to have its DPU permit renewed annually by the TNC Division. *See* Mass. Gen. Laws ch. 159A1/2 § 3(b); 220 C.M.R. § 274.03(1)(b).

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

371. Before granting or renewing a permit for Lyft, the TNC Division must determine that Lyft's "rendering of transportation network services" in Massachusetts "is consistent with the public interest." *See* Mass. Gen. Laws ch. 159A1/2 § 3(c); 220 C.M.R. § 274.03(1)(b).

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

372. The TNC Division has renewed Lyft's permit every year since it first received a permit to operate in Massachusetts. (Brendan Joyce.)

AGO Response: Undisputed.

C. Background Checks

373. The TNC Act and TNC Regulations require that individuals seeking to drive using the Lyft platform undergo a two-part background check to determine whether the individual is “suitable” according to criteria set forth by the TNC Regulations. *See* Mass. Gen. Laws ch. 159A1/2 § 4(c); 220 C.M.R. § 274.06(1)(a). (Olivia Henry; Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

374. First, Lyft must conduct background checks on applicants seeking to drive using the Lyft platform. *See* Mass. Gen. Laws ch. 159A1/2 § 4(c); 220 C.M.R. § 274.06(2). (Olivia Henry; Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

375. That background check must include, at a minimum, a review of multi-state criminal history, multi-state motor vehicle driving history, and the U.S. Department of Justice National Sex Offender Public website. *See* 220 C.M.R. § 274.06(2)(a). (Olivia Henry; Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

376. When it applied for its TNC permit, Lyft was required to detail its method of conducting background checks on prospective drivers. (Ex. 2097 ¶ 18.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

377. To comply with the regulatory requirement to conduct background checks, Lyft contracts with Checkr, which performs a criminal background check, and SambaSafety, which performs a driving background check. (Olivia Henry.)

AGO Response: Undisputed that Lyft contracts with Checkr, which performs a criminal background check, and SambaSafety, which performs a driving background check. The remainder of this proposed finding of fact is a conclusion of law to which no response is required.

378. After Lyft receives information from driver applicants—including name, contact information, Social Security number, driver’s license, information concerning applicant’s car, and consent to perform the background check—Lyft provides that information to Checkr and SambaSafety, which run the required background checks. (Olivia Henry.)

AGO Response: Undisputed.

379. Second, after Lyft receives identifying information from a driver applicant, it must provide information to the TNC Division, *see* Mass. Gen. Laws ch. 159A1/2 § 4(c), which conducts a background check of the driver applicant based on information it receives from the Department of Criminal Justice Information Services, Sex Offender Registry Board, Warrant Management System, Registry of Motor Vehicles, and “other reliable sources.” 220 C.M.R. § 274.06(3)(a). (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed that, after Lyft receives identifying information from a driver applicant, it provides information to the TNC Division and that the TNC Division conducts a background check of the driver applicant based on information it receives from the Department of Criminal Justice Information Services, Sex Offender Registry Board, Warrant Management System, and Registry of Motor Vehicles. The remainder of this proposed finding of fact is a conclusion of law to which no response is required.

380. To comply with the regulatory requirement to provide certain driver identifying information to the TNC Division, Lyft has developed computer code known as an application programming interface (“API”) that allows Lyft to submit the information of driver applicants to the TNC Division. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed that Lyft has developed computer code known as an application programming interface (“API”) that allows Lyft to submit the information of driver applicants to the TNC Division. The remainder of this proposed finding of fact contains conclusions of law to which no response is required.

381. Through that API, Lyft submits identifying information of a driver applicant to the TNC Division. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

382. The TNC Division determines whether a driver applicant is “suitable” under the standard promulgated by the Department of Public Utilities. *See* Mass. Gen. Laws ch. 159A1/2 § 3(d); 220 C.M.R. § 274.06(3)(a); 220 C.M.R. § 274.21. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

383. If the TNC Division determines a driver is “suitable,” it provides Lyft and the driver with a background check clearance certificate. Mass. Gen. Laws ch. 159A1/2 § 3(d); 220 C.M.R. § 274.06(3)(c). (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

384. The TNC Act and TNC Regulations require Lyft to conduct background checks at least twice per year on drivers who use the Lyft platform. Mass. Gen. Laws ch. 159A1/2 § 4(d); 220 C.M.R. § 274.06(2)(b). (Olivia Henry; Brendan Joyce; Ex. 2097 ¶ 17.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

385. The TNC Act and TNC Regulations further require Lyft to immediately remove a driver from its network if the driver is not found suitable under the standards promulgated by the TNC Division. Mass. Gen. Laws ch. 159A1/2 § 4(d); 220 C.M.R. § 274.06(2)(d). (Olivia Henry; Brendan Joyce; Ex. 2097 ¶ 17.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

386. To comply with this requirement to remove a driver from its network immediately if the driver is not found suitable under the standards promulgated by the TNC Division, Lyft completes a criminal background check and driving-record check on active drivers at least every six months. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed that Lyft completes a criminal background check and driving-record check on active drivers at least every six months. The remainder of the proposed finding of fact is a conclusion of law to which no response is required.

387. Lyft also elects to enroll drivers in a continuous monitoring program run by a third-party vendor. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

388. Additionally, Lyft participates in a clearinghouse with another gig-economy platform so that Lyft is notified of deactivations of users on the other application under certain circumstances. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

D. Driver Certificates

389. The TNC Act requires drivers who use the Lyft platform to apply to Lyft for a transportation network driver certificate. *See* Mass. Gen. Laws ch. 159A1/2 § 4(a). (Olivia Henry; Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

390. A driver's transportation network driver certificate is available for riders to view in the Lyft app during their ride. (Brendan Joyce.)

AGO Response: Undisputed.

391. The TNC Act sets minimum requirements governing to whom Lyft may issue a certificate, including requirements related to age, sex-offender status, criminal history, and driving record. *See id.* § 4(b)(i)-(vii). (Olivia Henry; Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

392. The TNC Act expressly allows Lyft not to issue a certificate to a driver even when he or she meets the requirements of the TNC Act. *See id.* § 9 ("Nothing in this chapter shall require a transportation network company to issue a driver certificate to a driver applicant who meets the requirements of this chapter . . ."). (Olivia Henry; Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

393. The TNC Act also requires Lyft to suspend a driver's certificate immediately if it learns of and verifies a driver's arrest for a crime or citation for a driving infraction that would render the driver unsuitable to provide transportation network services. Mass. Gen. Laws ch. 159A1/2 § 4(e); 220 C.M.R. § 274.06(2)(d). (Olivia Henry; Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

394. If a driver's certificate is suspended, Lyft must "bar access" by the driver to the Lyft platform. 220 C.M.R. § 274.06(2)(e). (Olivia Henry; Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

395. A driver may not use the Lyft platform without a transportation network driver certificate. *See* Mass. Gen. Laws ch. 159A1/2 § 4(a); 220 C.M.R. § 274.04(1)(b); 220 C.M.R. § 274.05(1). (Olivia Henry; Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which to response is required.

396. The TNC Act requires drivers to display a transportation network driver certificate in their vehicle in a location that makes it visible to riders. *Id.* (Olivia Henry; Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

397. Drivers who use TNC platforms are prohibited from sharing their TNC Driver Certificates with other individuals to provide rides. Mass. Gen. Laws ch. 159A1/2 § 7(b). (Olivia Henry; Brendan Joyce; Ex. 2097 ¶ 30.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

398. If a driver knowingly or willfully allows another individual to use his or her driver's certificate or identity to provide rides using the Lyft platform, he or she "shall be punished" by a fine (for the first or second offense) or by a fine or imprisonment (for third or subsequent offense). Mass. Gen. Laws ch. 159A1/2 § 7(b). (Olivia Henry; Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

399. After a driver completes the application process to use the Lyft platform as a driver, Lyft provides a driver with a driver certificate to display in their vehicle in a location that makes it visible to riders. (Esin Arsan Karasabun; Olivia Henry.)

AGO Response: Undisputed.

E. Decals

400. The TNC Act and TNC Regulations require Lyft to issue removable decals to drivers who use the Lyft application and requires such drivers to display that Lyft decal on the front and back of their vehicles “at all times” while providing rides using the Lyft platform. Mass. Gen. Laws ch. 159A1/2 § 2(b); 220 C.M.R. § 274.08(1). (Olivia Henry; Brendan Joyce; Ex. 2097 ¶ 31.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

401. After a driver completes the application process to use the Lyft platform as a driver, Lyft provides the driver with decals to be displayed on their vehicles while providing rides to riders. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

402. If a driver is issued a citation for failure to display the Lyft decals, then the TNC Division can take steps to try to impose a fine on Lyft. *See* Mass. Gen. Laws ch. 159A1/2 § 7(a); 220 C.M.R. § 274.14(1). (Olivia Henry; Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

F. Data Collection

403. The TNC Act and TNC Regulations require Lyft to maintain certain records, including records related to incidents reported to Lyft concerning drivers and data related to each

ride arranged through the Lyft platform (identity of driver and rider; date and time of ride; origination and destination addresses; date, time, and location of drop-off; and method of payment). Mass. Gen. Laws ch. 159A1/2 § 8(a); 220 C.M.R. § 274.11(3), (4). (Ex. 2097 ¶¶ 10, 14.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law. This proposed finding of fact is a conclusion of law to which no response is required.

404. Lyft receives and maintains information related to incidents concerning user behavior, including information received from riders regarding drivers. (Olivia Henry.)

AGO Response: Undisputed.

405. Lyft also collects and maintains data, in compliance with its Terms of Service and Privacy Policy, from users. (Olivia Henry.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

406. The data that Lyft collects from users includes the identities of users; date and time of rides arranged through the Lyft platform; origination and destination addresses for such rides; date, time, and location of drop-off for such rides; and methods of payment for such rides. (Olivia Henry.)

AGO Response: Undisputed.

407. Lyft is also required by the TNC Regulations to notify users of Lyft's use of their personal information and obtain users' consent to use such information. 220 CMR 274.10.(Ex. 2097 ¶ 16.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

408. Lyft obtains consent from users to use their personal information by their agreement to its Terms of Use and Privacy Policy. (Olivia Henry.)

AGO Response: Disputed. Lyft requires drivers to accept the Terms of Service and Privacy Policy under conditions that discourages and makes it unlikely that drivers will read those documents or understand what they mean. Thus, any “consent” is not informed. (AGO Proposed Findings of Fact, ¶¶ 11, 12.)

409. The TNC Act requires Lyft to submit on the first day of each month data related to each ride arranged using the Lyft platform in the month before the previous month. *See* Mass. Gen. Laws ch. 159A1/2 § 12(a). (Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

410. The data that Lyft must submit for each ride include (among other data) (i) the latitude and longitude of the origination and termination points of the ride; (ii) the date and time of the origination and termination; (iii) the time that the driver spent driving to pick up the rider and the time that the driver spent providing the ride; (iv) the mileage that the driver drove to pick up the rider and the mileage that the driver drove providing the ride; (v) the geographic position of the vehicle during the entire duration of the ride (at intervals of not less than every 60 seconds of the ride); and (vi) information concerning the driver, including a unique identifier, their town of residence, and their vehicle license plate. *See* Mass. Gen. Laws ch. 159A1/2 § 12(a). (Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

411. Each month, Lyft submits this data to the TNC Division. (Brendan Joyce.)

AGO Response: Undisputed.

412. The TNC Regulations require Lyft to submit similar information annually. 220 C.M.R. § 274.12(2). (Brendan Joyce; Ex. 2097 ¶ 10.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

413. The TNC Act allows the TNC Division to obtain from Lyft “additional ride data . . . for purposes of congestion management,” including the total number of drivers using the Lyft platform within particular geographic areas and time periods and the total time spent and total miles driven by drivers in these areas and time periods. Mass. Gen. Laws ch. 159A1/2 § 12(b). (Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

414. Lyft also annually reports the location of origin, destination, and trip route and length of every ride on its platform as well as the location of any accidents that occur during rides provided through its platform. (Brendan Joyce.)

AGO Response: Undisputed.

G. Reporting Requirements

415. The TNC Act requires Lyft to notify the TNC Division when it receives information that a driver who uses the Lyft platform has violated a law, rule, or regulation related to providing transportation network services or that a driver is otherwise not suitable. *See* Mass. Gen. Laws ch. 159A1/2 § 2(l). (Ex. 2097 ¶ 13.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

416. Lyft is also required by the TNC Act and Regulations to report to the TNC Division when it suspends or deactivates drivers who use Lyft's platform. G.L. c. 159A½, § 4(e); 220 CMR 274.12(4). (Olivia Henry; Brendan Joyce; Ex. 2097 ¶ 13.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

417. To the extent that Lyft receives information that a driver who uses Lyft's platform has violated a law, rule, or regulation related to providing transportation network services or that a driver is otherwise not suitable, it provides this information to the TNC Division via the API. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

418. To the extent that Lyft suspends or deactivates a driver who uses Lyft's platform for a reason related to public safety, Lyft notifies the TNC Division and provides the TNC Division with the information upon which it relied when suspending or deactivating the driver. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

419. The TNC Act expressly allows Lyft to suspend, revoke, or otherwise terminate a driver from using the Lyft platform. See Mass. Gen. Laws ch. 159A1/2 § 9 ("Nothing in this chapter shall . . . prevent the transportation network company from suspending, revoking or otherwise terminating a driver from its digital network."). (Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

420. After Lyft provides any such notification and information, the TNC Division has the opportunity to request further information, and Lyft responds to such further requests for information. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

H. Insurance

421. The TNC Act and the TNC Regulations require Lyft to carry insurance for each vehicle being used to provide rides facilitated by the Lyft platform. Mass. Gen. Laws ch. 159A1/2 § 5(a); 220 C.M.R. § 274.08(4). (Ex. 2097 ¶ 21.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

422. The TNC Act mandates that, to the extent that the insurance maintained by drivers who use the Lyft platform “has lapsed, failed to provide required coverage, denied a claim for the required coverage or otherwise ceased to exist,” the insurance maintained by Lyft must provide the required coverage. *See* Mass. Gen. Laws ch. 175 § 228(e). (Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

423. Lyft carries insurance for each vehicle being used to provide rides facilitated by the Lyft platform in Massachusetts. (Brendan Joyce.)

AGO Response: Undisputed.

424. The TNC Act and TNC Regulations require drivers who use the Lyft platform to carry insurance for each vehicle being used to provide rides facilitated by the Lyft platform in association with his or her transportation network driver’s certificate. Mass. Gen. Laws ch. 159A1/2 § 5(b); 220 C.M.R. § 274.08(4). (Ex. 2097 ¶ 31.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

425. The TNC Act sets requirements related to the type and amount of coverage a driver must have, including (i) when a driver is logged into the Lyft platform and available to

receive ride requests but not providing a ride and (ii) when a driver is providing a ride that was arranged through the Lyft platform. *See* Mass. Gen. Laws ch. 175 § 228(c), (d). (Brendan Joyce.)

AGO Response: This proposed finding of fact is a conclusion of law to which no response is required.

426. The TNC Act and TNC Regulations require Lyft to confirm that drivers maintain insurance that is compliant with the TNC Act. Mass. Gen. Laws ch. 159A1/2 § 3(c)(i); 220 C.M.R. § 274.03(2)(f). (Brendan Joyce; Ex. 2097 ¶ 21.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

I. Vehicle Inspections

427. The TNC Act and TNC Regulations require drivers who use the Lyft platform to obtain a TNC vehicle inspection either at their next annual emissions testing or within 12 months of obtaining a transportation network driver certificate, whichever comes first. *See* Mass. Gen. Laws ch. 159A1/2 § 2(f); *see also* Mass. Gen. Laws ch. 90 § 7A; 220 C.M.R. § 274.04(c); 220 C.M.R. § 274.08(3). (Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

428. Lyft obtains documentation concerning the registration status of driver vehicles, the inspection status of driver vehicles (including whether they have passed TNC inspection), and insurance status during the application process and upon document expiration. (Olivia Henry.)

AGO Response: Undisputed.

429. Lyft uses an API to obtain Massachusetts and TNC inspection records directly from the Massachusetts Registry of Motor Vehicles. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

430. Each time a driver logs into the Lyft platform to provide ridesharing services, Lyft reviews its database of driver documentation to determine whether that driver's vehicle has the documentation required to operate in Massachusetts. (Olivia Henry; Brendan Joyce.)

AGO Response: Undisputed.

J. Other Regulatory Requirements

431. The TNC Act and TNC Regulations require Lyft to establish a toll-free customer service hotline, online webpage, email system, and functionality within the Lyft platform that is capable of responding to consumer, driver, and rider questions and complaints and to post the phone number for that hotline on its website and within the Lyft platform. Mass. Gen. Laws ch. 159A1/2 § 3(c)(viii); 220 C.M.R. § 274.03(2)(c). (Ex. 2097 ¶ 19.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

432. The TNC Act and TNC Regulations require Lyft, pursuant to proper legal service, to provide to requesting law enforcement agencies information related to alleged criminal incidents, including trip-specific details (e.g., origin and destination, length of ride, GPS coordinates or route, driver identification) and information related to the alleged criminal incidents reported by drivers or riders to Lyft. Mass. Gen. Laws ch. 159A1/2 § 8(c). (Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

433. The TNC Act and TNC Regulations require that Lyft has oversight processes in place to ensure that (among other things) (i) each driver has adequate insurance coverage and otherwise complies with all laws, rules, and regulations concerning transportation network

drivers; (ii) each driver has successfully completed a background check, maintains a valid background check clearance certificate, is a “suitable” driver, and has a transportation network driver certificate; (iii) each driver does not discriminate against riders and accommodates riders with special needs, and (iv) prohibit the use of excessive minimum or base rates, including by drivers. Mass. Gen. Laws ch. 159A1/2 § 3(c)(i), (ii), (iv), (vi); 220 C.M.R. § 274.03(2).

(Brendan Joyce; Ex. 2097 ¶¶ 6-7, 22-25)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

434. The TNC Act requires drivers who use the Lyft platform to comply with all applicable laws, rules, and regulations relating to the accommodation of service animals. *See* Mass. Gen. Laws ch. 159A1/2 § 2(h). (Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

435. TNC Regulations prohibit drivers from offering or providing ride-sharing services for more than 12 consecutive hours in a 24-hour period. 220 C.M.R. § 274.07(1). (Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

436. TNC Regulations require Lyft to adopt a policy to ensure that drivers who use the Lyft platform for 12 hours of providing ride-sharing services in a 24-hour period then log out of the Lyft platform for at least 8 consecutive hours. 220 C.M.R. § 274.07(2). (Brendan Joyce; Ex. 2097 ¶ 15.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

437. The TNC Regulations also require Lyft to bar access to the Lyft platform for at least 24 hours to any driver who violates the limits on hours of service set forth by the TNC Regulations. *Id.* § 274.07(3). (Brendan Joyce.)

AGO Response: Disputed. The Attorney General takes issue with this statement insofar as it contains a conclusion of law.

438. To the extent that a driver completes 12 hours of ride-sharing services in a 24-hour period, Lyft logs that driver out of the Lyft platform and prohibits the driver from resuming providing rides for at least 8 hours. (Esin Arsan Karasabun.)

AGO Response: Undisputed.

Dated: May 1, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2024 a true copy of the above document was served by email upon the individuals identified below.

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