

STATE OF NORTH CAROLINA
COUNTY OF WAKE

**MASTER ENCROACHMENT AGREEMENT
FOR OPERATION OF DOCKLESS SCOOTER DEVICES**

THIS AGREEMENT (“Agreement”) is made this ____ day of _____, 20__, by and between **THE CITY OF RALEIGH**, a municipal corporation existing under the laws of the State of North Carolina (the “City”), and _____, hereinafter known as the “Licensee.”

WITNESSETH:

WHEREAS, dockless electric scooter systems have been deployed in communities throughout the United States, often without consent of the jurisdiction; and

WHEREAS, dockless electric scooter operators have deployed electric scooters and operated their shared mobility device business on City rights-of-way and other City property without the City’s permission; and

WHEREAS, Dockless Scooter Systems can provide a public benefit for short trips as they can reduce congestion and greenhouse gas emissions; however, those systems also present issues related to public safety, clutter, pedestrian access and access to other modes of transportation, disproportionate use of public infrastructure, significant investment of City resources to address concerns related to the Dockless Scooter System operations; and

WHEREAS, the Raleigh City Council has approved this master encroachment agreement to permit operation of Dockless Scooter Systems under terms and conditions that protect the public interest; and

WHEREAS, Licensee wishes to operate a Dockless Scooter System and has agreed to all terms and conditions contained in this Master Encroachment Agreement; and

WHEREAS, Licensee’s operations result in additional costs and expenses to the City that other types of right-of-way encroachments do not cause; and

WHEREAS, the City, under the terms and conditions herein set forth, is willing to allow the Licensee a non-exclusive license to encroach upon the City-owned right-of-way for operations in accordance with this Agreement.

NOW, THEREFORE, Licensee and the City agree as follows:

1. Definitions

- 1.1. "Agreement" shall mean this Master Encroachment Agreement and all attachments, amendments and addenda thereto.
- 1.2. "Amenity Zone" shall mean that portion of the public Right-of-Way, adjacent to the sidewalk but outside the pedestrian walking area, which includes streetscape elements, street furniture, landscaping, and/or street trees.
- 1.3. "City of Raleigh Right-of-Way" shall mean the streets, avenues, boulevards, roads, alleys, lanes, highways, sidewalks, and other public ways open to the use of the public as a matter of right for the purposes of vehicles and pedestrians, unless otherwise prohibited by law.
- 1.4. "Dockless Scooter System" shall mean a network or system of Fleet Vehicles, including motorized scooters, that do not require fixed docking stations for users to receive or return units.
- 1.5. "Effective Date" shall mean the date of final execution of the Agreement by all parties.
- 1.6. "Equipment" shall mean scooters owned or operated by Licensee and all other related equipment, including but not limited to equipment relating to the maintenance, charging of the vehicles, mobile applications, software, or otherwise related to the business of the Licensee hereunder.
- 1.7. "Fleet" or "Fleet Vehicle" shall mean the motorized scooters subject to this Agreement, under the common ownership and control of Licensee.
- 1.8. "Licensee" shall mean _____, its agents, officers, employees, subsidiaries and affiliates, regardless of whether wholly or partially owned, and any contractors or subcontractors utilized in the performance of this Agreement.
- 1.9. "Pedestrian Corridor" shall mean the unobstructed path of travel used for pedestrian traffic that may consist of sidewalks, greenways, multi-use pathways, and other public ways, or a combination of these elements.
- 1.10. "Relocate" or "Rebalance" shall mean the redistribution by the Licensee, its employees or agents, of Fleet Vehicle(s) from one location to another, to include for controlling inventory levels at specific areas as determined by the parties.
- 1.11. "Sidewalk" shall mean the part of a street, avenue, boulevard, road, alley, lane, highway, or other public way that is improved for pedestrian traffic.

- 1.12. "User" shall mean a person or individual who rents or operates a Fleet Vehicle. User shall not include a Licensee or company that operates a Dockless Scooter System.

2. Agreement Required

No person or entity may operate a Dockless Scooter System within the City except in accordance with this Agreement, duly approved and executed by all parties. No scooter, or any other vehicle used for Licensee's private purposes, may be driven, parked, left standing, or left unattended on any portion of the City of Raleigh Right-of-Way except by virtue of this Agreement.

3. Term

This Agreement shall commence on the Effective Date and shall end on July 31, 2019, unless terminated earlier.

4. Termination

- 4.1. This Agreement is revocable at will by the Raleigh City Council in the Council's sole discretion.
- 4.2. Licensee shall remove all Fleet Vehicles and other Equipment from the City of Raleigh Right-of-Way no later than seven (7) calendar days after termination of this Agreement, which requirement survives the termination of the Agreement.

5. Licensee's Payment Obligations.

- 5.1. Within five (5) calendar days from the Effective Date, Licensee shall pay to the City the encroachment fee of \$300.00 per Fleet Vehicle operating within the City's territorial limits as of the Effective Date and the relevant application fee, to partially defray the administrative costs of the City in processing this Agreement.
- 5.2. If at any time after the Effective Date, Licensee increases the fleet size during the term of this Agreement, Licensee shall pay the City \$300.00 per Fleet Vehicle within five (5) days of the vehicle's presence within the City or notice to the City of the proposed increase, whichever is first.
- 5.3. The City shall retain the entire fee paid hereunder by the Licensee even if Licensee reduces the size of its fleet during the term of this Agreement. No refund shall be issued because of an amendment, revision, revocation, or termination of this Agreement.

6. Nonexclusive, Revocable License Granted for Shared Mobility Scooter System.

6.1. The City hereby grants Licensee a nonexclusive, revocable license to operate a Dockless Scooter System on City of Raleigh Right-of-Way within the City's territorial limits, subject to the terms and conditions contained in this Agreement and to any other applicable conditions, requirements and restrictions set out in the City Code. Upon revocation, which is at the City's will, Licensee shall bear all expenses related to the revocation.

6.2. This Agreement shall not divest the City of any rights or interest held by it in the City of Raleigh Right-of-Way.

7. General Conditions.

7.1. Licensee Responsible for Operational Costs.

The Licensee shall be fully responsible for any and all costs and expenses, to include any legal fees or civil penalties assessed or incurred by Licensee, or its Users, agents, employees, contractors, independent contractors, or subcontractors, directly related to Licensee's operations hereunder.

7.2. Licensee Responsible for Damages, Repair Costs.

- a) The Licensee shall be fully responsible for any and all damages related in any way to the use of the City of Raleigh Right-of-Way and/or operation of Licensee's Dockless Scooter System, including, but not limited to, property damage, personal injury, or death of any person caused by or arising out of the negligence, errors, omissions, defects, and/or willful misconduct, of the Licensee, its agents, employees, contractors, independent contractors, or subcontractors, arising from or relating to any cause of action arising out of the operation of the Dockless Scooter System and/or this Agreement.
- b) Licensee shall be responsible for all costs related to public property repair and maintenance costs directly related to Licensee's operations that may be incurred by the City, including but not limited to any costs of repairing or maintaining damaged public property caused by the Licensee, or its Users, its agents, employees, contractors, independent contractors, or subcontractors, the removal and/or storage of improperly parked or abandoned Fleet Vehicles, and any violations of this Agreement, or of any local, State, or Federal law.

7.3. Indemnity to City.

Licensee intends to use the City of Raleigh Right-of-Way to conduct its business operations. Licensee's operations can result in harm to members of the public or damage to public property. Licensee agrees to defend, indemnify, and hold harmless the City, its officers, councilors and employees (the "Indemnified Parties") from and against any and all consequences, claims, demands, causes

of action, losses, liabilities, damages, injuries, fees, costs and expenses, penalties, attorneys' fees, judgments, suits, settlements, and/or disbursements of any kind, or nature whatsoever, whether foreseeable or unforeseeable, and whether known or unknown, that directly or indirectly arise from or are related to any claim, suit, action, demand, or proceeding made or brought against the City its officers, councilors and employees, or on account of the investigation, defense, or settlement thereof, arising out of or in connection with, whether occurring heretofore or hereafter, regardless of whether such claims are rightfully or wrongfully brought or filed:

- a) Arising from or relating in any way to Licensee's use of the City of Raleigh Right-of-Way, and/or operation of its Dockless Scooter System, including the use or misuse of Fleet Vehicles or Equipment by the Licensee or by any of its Users, agents, employees, contractors, independent contractors, or subcontractors;
- b) Arising from or relating in any way to the Licensee's failure to perform its obligations under this Agreement;
- c) Arising from or relating in any way to any act of negligence, omission, error, or willful misconduct by the Licensee or any of its Users, agents, employees, contractors, independent contractors, or subcontractors relating to this Agreement, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible, including to the employees or property of the City;
- d) Arising from or relating in any way to the violation or alleged violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities in connection with the use of the Equipment or activities in connection with the Equipment by the Licensee or any of its Users, agents, employees, contractors, independent contractors, or subcontractors;
- e) Arising from or relating in any way to information or material transmitted through the Equipment, that infringes, violates, or misappropriates any copyright, trademark, trade secret, trade dress, patent, publicity, privacy, or other right of any person or entity;
- f) Arising from or relating in any way to any misrepresentation made by or on behalf of Licensee or any of its Users, agents, employees, contractors, independent contractors, or subcontractors;
- g) Arising out of or relating in any way to the Licensee's, or any of its Users, agents, employees, contractors, independent contractors, or

subcontractors' use of the public space, public right-of-way, or public structure; or

- h) Regardless of the cause of action, any action which in any way whatsoever arises from or relates to the operation, installation, maintenance, or location of this Encroachment Agreement, Licensee's operations, and/or its Dockless Scooter System; except that the Licensee may not be so obliged in the event that the claim or occurrence at issue arose from the gross negligence or willful misconduct of the Indemnified Parties.

7.4. Indemnity Bond Required.

Licensee shall obtain a continuing indemnity bond from an insurance company authorized to do business in North Carolina and acceptable to the City's Risk Manager with sufficient surety in the amount of \$30,000.00, to ensure adequate funds are available to reimburse the City for future public property repair and maintenance costs that may be incurred, including but not limited to any costs of repairing or maintaining damaged public property caused by the Licensee, or its Users, its agents, employees, contractors or subcontractors, the removal and/or storage of improperly parked or abandoned Fleet Vehicles, and any other violations. In no instance shall the City's Risk Manager accept an offshore insurer to provide the indemnity bond.

7.5. Insurance—Required Insurance Coverage for Licensee.

Licensee shall maintain, on a primary basis and at its sole expense, at all times during the term of this Agreement the insurance coverages and limits set forth herein. These insurance requirements, as well as City's review or acceptance of insurance maintained by Licensee is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Licensee under this Agreement. This Agreement shall not be approved without Licensee first furnishing to the City a valid Certificate of Insurance from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect for the amounts required herein.

Commercial General Liability – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate covering full liability for any and all personal injury, property damage, or wrongful death caused by construction, maintenance, location, repair, or visual obstruction of the operator of the Dockless Scooter System, or other operator of the Licensee, with the City of Raleigh being added as additional insured. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

Automobile Liability – Limits of no less than \$1,000,000 Combined Single Limit. Coverage must be in accordance with North Carolina General Statute Chapter 20 and shall include liability for Owned, Non-Owned and Hired automobiles. Licensee agrees to maintain Automobile Liability coverage for all Equipment hereunder. Hired and Non-Owned Auto Liability may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy.

Worker's Compensation & Employers Liability – Licensee agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 and with limits of no less than \$1,000,000 each accident, each employee and policy limit.

Additional Insured – Licensee agrees to endorse the City as an Additional Insured on the Commercial General Liability and Automobile Liability. The Additional Insured shall read 'City of Raleigh as its interest may appear'.

Certificate of Insurance – Licensee shall furnish the City without demand a certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect. In the event of any change in the insurance policy, Licensee shall give the City thirty (30) days' notice of such change. If Licensee receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Licensee agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. Should Licensee fail to pay premiums upon said insurance, or should Licensee fail to obtain said insurance, or to perform any of the agreements, terms, or conditions herein contained; the City at its option, by written notice may declare this Agreement canceled and terminated and all rights acquired hereunder by Licensee shall thereupon terminate, except Licensee shall still be responsible for removing the Equipment from the City of Raleigh Right-of-Way.

The Certificate Holder address should read:

City of Raleigh
City Manager
Post Office Box 590
Raleigh, NC 27602-0590.

Umbrella or Excess Liability – Licensee may satisfy the minimum Commercial General Liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than

the highest 'Each Occurrence' limit for required policies. Licensee agrees to endorse the City of Raleigh as an 'Additional Insured' on the Umbrella or Excess Liability unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a 'Follow-Form' basis.

All insurance companies must be authorized to do business in North Carolina and be acceptable to the City's Risk Manager.

7.6. Insurance—Required by Licensee for Users and Contractors.

Licensee shall provide insurance coverage that meets N.C. statutory requirements for operation of a moped on a street or highway and covers liability caused by any User of the Equipment. Licensee shall provide this coverage before allowing the Equipment to operate on the City of Raleigh Right-of-Way.

Licensee shall provide insurance coverage for or require the Licensee's contractors to provide insurance coverage with limits no less than \$30,000 for bodily injury per person/\$60,000 for bodily injury per accident/\$25,000 for property damage applicable to operations within the City of Raleigh Right-of-Way in any way related to Licensee's operation.

7.7. Compliance with Law. Licensee agrees that it shall abide by all local, State, and Federal statutes and ordinances.

7.8. This encroachment is approved under the conditions as outlined in Resolution 1996-153 adopted June 4, 1996.

7.9. Notice. Any notices or communications relating to this Agreement must be given in writing and transmitted to the mailing address, facsimile number, or e-mail address provided below. A party may change this information by marking the writing conspicuously with the phrase "**CHANGE OF NOTICE PROVISION (Agreement sec. 7.9)**" and transmitting the change in accordance with this provision.

If to City:

City of Raleigh Transportation Director

P.O. Box 590

Raleigh, North Carolina, 27602-0590

Facsimile:

E-mail:

If to Licensee:

Facsimile:

E-mail:

24 Hour Customer Service Phone Number: _____

- 7.10. This Agreement shall be binding upon and enure to the benefit of all the parties hereto.
- 7.11. *No Assignment.* Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by Licensee without the prior written consent of the City which the City, in its sole discretion, may grant or deny.
- 7.12. *Choice of Law; Venue.* All matters relating to this Agreement shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action related to the Agreement shall be in the Wake County Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.
- 7.13. *Headings.* The division of this Agreement into sections and the use of headings of sections and subsections are for convenient reference only and shall not be deemed to limit, construe, affect, modify, or alter the meaning of such sections or subsections.
- 7.14. *Nondiscrimination Provision.* To the extent permitted by North Carolina law, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Agreement. The parties further agree, to the extent permitted by law, to conform with the provisions and intent of City of Raleigh Ordinance 1969-889, as amended. This provision is hereby incorporated into this Agreement for the benefit of the City and its residents, and may be enforced by action for specific performance, injunctive relief, or other remedy as provided by law. This provision shall be binding on the successors and assigns of the parties with reference to the subject matter of this Agreement.
- 7.15. *No Endorsement.* This Agreement is not an endorsement of Licensee. Licensee shall not use the existence of this Agreement, or the name of the City of Raleigh, as part of any advertising, marketing, promotion, or in any media without the prior written approval of the City. Licensee shall not use any Fleet Vehicle for the sale or display of any third-party advertising.
- 7.16. *No Waiver.* The failure or delay of any party to enforce at any time or any period of time any of the provisions of this Agreement shall not constitute a present or future waiver of such provisions nor the right of either party to enforce each and every provision.
- 7.17. *Severability.* If any term, clause, sentence, paragraph, article, subsection, section, provision, condition, or covenant of this Agreement is held to be invalid or unenforceable, for any reason, it shall not affect, impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the term, clause, sentence, paragraph, article, subsection, section, provision,

condition, or covenant of this Agreement so adjudged to be invalid or unenforceable.

7.18. *No Third-Party Beneficiary Status Created.* This Agreement is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the parties to the Agreement. This Agreement shall not confer any rights or remedies upon any person or entity other than the parties hereto.

8. Specific Operational Requirements

Licensee shall comply with all provisions contained in this Section 8.

8.1. Maintenance and Operations

- a) Licensee shall deploy, maintain, and operate a minimum of fifty (50) Fleet Vehicles within the Raleigh city limits at any time, throughout the term of this Agreement.
- b) Licensee shall not operate or allow the operation of more than five hundred (500) Fleet Vehicles within the Raleigh city limits at any time.
- c) The City, at its sole discretion and at any time, may amend the minimum or maximum allowable number of Fleet Vehicles.
- d) Licensee shall notify the City if there is a plan to change the fleet size no later than two (2) weeks prior to deployment or removal.
- e) If Licensee increases the fleet size during the term of this Agreement, the payment of \$300.00 per additional Fleet Vehicle shall be paid within five (5) days of the vehicle's presence within the City or notice to the City of the proposed increase, whichever is first.
- f) To allow for continued oversight and monitoring of the Licensee by the City, Licensee shall provide the City with five (5) separate login accounts.
- g) Licensee shall maintain staffed operations located within the City of Raleigh. The local operations shall be responsible for, *inter alia*, the maintenance, rebalancing, relocating, and removing of Fleet Vehicles, and responding to complaints as received. The Licensee shall provide to the City the direct local contact for staff that are capable of rebalancing, relocating, and removing the Fleet Vehicles within two (2) hours of notification. This local operation staff contact may be published on the City's website, each vehicle, and/or other materials as determined by the City.
- h) Licensee shall provide a Customer Service telephone number that operates twenty-four (24) hours each day for persons to report safety concerns, maintenance issues, complaints, or ask questions. The Customer Service

telephone number shall be visible on each Fleet Vehicle and provided to the City for publication on City's website and other materials.

- i) Licensee must provide to the City monthly and annual reports regarding rate structures that will be offered to all Users including any daily, monthly, or annual passes or subscriptions, and the reports shall include any discount programs that will be available to students, low income or at-risk populations, or other categories, including any qualifications required for these discount programs.
- j) Licensee shall communicate to Users sufficient information on charges that may be made, including rates and dollar amounts of fees, including rental charges, minimum charges, maximum charges, charges for additional time, and charges for overage periods. If charges may be based on time or distance, information on the rate per minute, hour, mile or other applicable time period or distance shall also be provided.
- k) Equity
 - i. Licensee shall implement programs to reduce barriers to low-income persons to rent its Fleet Vehicles by providing diverse payment options, including options for persons with neither a smart phone nor a credit card to rent its shared device. These options shall be made accessible to low-income persons at multiple locations within the area of operation.
 - ii. Licensee must submit a plan, within thirty (30) days of execution of this Agreement by all parties, outlining how their services will be made available to those without access to a smart phone and/or a bank account. The proposed plan must include the rate structures that will be offered to all users, including any daily, monthly, or annual passes or subscriptions. The submission shall also include any discount programs that will be available to students, low income or at-risk populations, and/or other categories, including any qualifications required for these discount programs.
 - iii. At least twenty-percent (20%) of the Fleet Vehicle inventory shall be available and maintained within groups or census tracts designated as "Communities of Concern", as designated by the City of Raleigh Department of Transportation.
 - iv. Licensee shall host a multilingual website and mobile application customer interface, with languages determined by the City, that is available 24 hours a day, seven days a week. The website and mobile application shall also meet the requirements of Section 508 of the Rehabilitation Act and Section 255 of the Communications Act that apply to information and communication technology.

- l) Licensee shall submit a maintenance, operations, cleaning, disposal, and repair plan for the Fleet Vehicles.
- m) Licensee shall provide User, prior to User's operation of the Equipment, in-app messaging that notifies Users of the following:
 - i. Users shall operate vehicles safely and park responsibly, in accordance with all applicable local, State, and Federal laws regarding motorized and non-motorized vehicles;
 - ii. Use by a minor is prohibited;
 - iii. Only one User per vehicle;
 - iv. Users shall yield to pedestrians;
 - v. Use of the motorized Fleet Vehicles on City of Raleigh sidewalks and greenways is prohibited.
 - vi. User must wear a helmet while the vehicle is in operation;
 - vii. User may not park on the sidewalk in the way of pedestrian traffic;
 - viii. User may not ride at night unless the motorized scooter is equipped with proper lighting equipment, including a front light source which is visible from the front and sides, and reflectors;
 - ix. The operation of the vehicle while under the influence of an impairing substance is prohibited; and
 - x. The fees and hourly rate to be paid by the User.

8.2. Parking

This Master Encroachment Agreement is only valid for operations within the right-of-way managed by the City of Raleigh. Use is not permitted upon plazas, off-street parking lots/garages, or private property. The City, in its sole discretion, may designate additional areas where operation of Fleet Vehicles is not permitted.

- a) Licensee shall be responsible for educating and informing customers how to park Fleet Vehicles properly.
- b) Fleet Vehicles shall be upright when parked.
- c) This Agreement does not grant Licensee permission for the installation of infrastructure, to include any parking infrastructure, temporary or permanent, within the City of Raleigh Right-of-Way.

- d) Fleet Vehicles shall not be parked in such a way to impede the regular flow of travel in the City of Raleigh Right-of-Way or otherwise cause a violation of the City Code.
- e) Permitted parking areas:
 - i. *Blocks with sidewalks.* Fleet Vehicles shall be permitted to park within the planting or Amenity Zone of the sidewalk, at a City-owned bicycle corral, or at City-designated areas.
 - ii. *Blocks without sidewalks.* Fleet Vehicles shall be parked within two (2) feet of the curb, not on private property, and not otherwise interfering with the use of the City of Raleigh Right-of-Way. Parking of Fleet Vehicles on private property by Licensee, or by any of its Users, agents, employees, contractors, independent contractors, or subcontractors is not authorized by virtue of this Agreement; separate authorization is required from any private property owner.
- f) The City retains the right to designate specific parking locations within designated areas where Fleet Vehicles must be parked. If the City designates specific parking locations, all Fleet Vehicles within the designated area shall park only in the specific location.
- g) Prohibited parking areas:
 - i. Fleet vehicles shall not be parked at the corner curb sight radius area of sidewalks, at the points of intersection of the Right-of-Way of two (2) intersecting streets, within five (5) feet of curb ramps, or in conflict with the required intersection sight triangle distance.
 - ii. On blocks with sidewalks, Fleet Vehicles may not be parked where the sidewalk is less than five (5) feet wide, or in any place where there is no planting strip or Amenity Zone abutting the street.
 - iii. Fleet Vehicles shall not be parked in the Pedestrian Corridor, any vehicular travel lane, or any bicycle lane.
 - iv. No Fleet Vehicle shall be parked within 100 feet of any school zone.
 - v. Fleet Vehicles shall not be parked in, on, or in a manner that interferes with normal operations of:
 - a. Bus zones, including bus stops and shelters, loading zones, accessible parking zones and/or associated loading zones;
 - b. Public benches, trash containers, parking pay stations, public information signs, or other fixtures requiring pedestrian access;

- c. Any building access, exits, or any emergency access or exit ways. Licensee shall place Fleet Vehicles or have Fleet Vehicles placed so that building access and building exits maintain a 10-foot clearance;
 - d. Any fire hydrant, standpipe, Siamese connector, emergency call box, emergency telecommunications equipment, any emergency facility, or any other fire or emergency related fixture;
 - e. Any driveway or cross-walk; or
 - f. Any area within the City of Raleigh Right-of-Way improved with lawn, flowers, shrubs, or trees.
- vi. Any location where the clear space for the passageway of pedestrians is reduced to less than five (5) feet;
 - vii. Within parklets or sidewalk dining areas;
 - viii. Within accessible parking areas and associated loading zones, or in a manner that interferes with the use of either; or
 - ix. On curb ramps, at signal push buttons, or at other facilities provided for handicapped persons, or in a manner that interferes with their use.
- h) Any Fleet Vehicle that is parked incorrectly shall be promptly re-parked in a correct manner or removed by the Licensee within two (2) hours of receiving notice. If the Fleet Vehicle is not re-parked or removed by the Licensee, the City may remove the vehicle and take it to a facility for storage at the Licensee's expense.
 - i) If notified of public access and/or safety concerns by the City, Licensee shall remove the identified Fleet Vehicle(s) within two (2) hours. If a Fleet Vehicle is not removed timely by the Licensee, the City may remove the Fleet Vehicle and take it to a designated facility for storage at the Licensee's expense.
 - j) Licensee shall conduct a daily check for improperly parked or abandoned Fleet Vehicles.
 - k) When deploying, rebalancing, or relocating Fleet Vehicles, Licensee shall not place more than four (4) Fleet Vehicles on a single block face.
 - l) Licensee shall remove all Fleet Vehicles from the City of Raleigh Right-of-Way no later than 10:00 PM EST for overnight charging and/or storage. If the Fleet Vehicle is not removed by the Licensee, the City may remove the vehicle and take it to a facility for storage at the Licensee's expense. Fleet Vehicles may be re-positioned in accordance with this Agreement no earlier than 5:00 AM EST each day.

m) Special/Emergency Events

- i. The City shall have the sole discretion to prohibit use or parking of any Fleet Vehicles within a designated area or areas for special or emergency events that require street closures and/or space upon a street or sidewalk.
 - ii. Licensee shall have at all times the ability to discover when its Fleet Vehicles are operated within prohibited areas and to communicate electronically that information to Users who have operated a Fleet Vehicle within a prohibited area. Licensee shall communicate to Users at the end of a trip when the Fleet Vehicle has been operated within a prohibited area.
 - iii. For planned events, City staff should endeavor to notify Licensee two (2) weeks prior to the event. Licensee will then be required to remove Fleet Vehicles at least six (6) hours prior to street closures or event set up. It is the responsibility of the Licensee to ensure that Users are aware of the restricted parking areas.
 - iv. Each Licensee shall remove and secure all Fleet Vehicles from the City of Raleigh Right-of-Way for all time periods for which the National Weather Service or its successor agency issues a wind advisory in the City.
- n) The City may, in its sole discretion and without prior notice, remove any Fleet Vehicle from the City of Raleigh Right-of-Way and store it at the Licensee's cost if the City determines in its sole discretion that the Fleet Vehicle interferes with pedestrian or vehicular traffic, impedes or obstructs the right-of-way, and/or in the event of an emergency. In such instances, the City will attempt to notify the Licensee within a timely manner.

8.3. Data

- a) Licensee shall collect and distribute a customer survey, provided by the City, to all Users within one year of the execution of this Agreement.
- b) Licensee shall maintain a record of maintenance activities, reported collisions, Fleet Vehicle locations, and parking, which shall detail the identification number and maintenance performed on all Equipment for the duration of the Agreement. These records shall be made available to the City, upon request.
- c) Licensee shall provide the City with a monthly data report containing the items listed below, on the provided monthly data report form. For each month's data report, the form should be completed and submitted to City staff on or before the end of business on the 7th day of the following month. Licensee will be required to report:

- i. Total trips for the month, and for each week in the month;
- ii. Total trip distance for the month, quarter and year;
- iii. Average distance and duration of each trip taken;
- iv. Number of vehicles in circulation, for each week in the month;
- v. Daily trips per vehicle (Average number of trips per vehicle per day);
- vi. Number of vehicles vandalized, damaged, and/or repaired;
- vii. Number of users in the Raleigh area, according to frequency of use:
 - a. New users
 - b. 1-3 trips
 - c. 4-8 trips
 - d. 9-15 trips
 - e. 16-30 trips
 - f. 31-60 trips
 - g. More than 60 trips
- viii. Total number of complaints, total number of complaints resolved, and number of complaints by type, including:
 - a. Vehicle blocking sidewalk;
 - b. Vehicle on private property;
 - c. Vehicle vandalized;
 - d. Vehicle inoperable;
 - e. Injury; and
 - f. Other.
- d) Licensee shall provide the City with anonymized real-time data (information that is delivered immediately after collection) on all Fleet Vehicles located within the City of Raleigh, upon request.
- e) Licensee shall provide anonymized data regarding the number of customers and trips to inform and support safe, equitable and effective management for

transportation planning efforts. Data may be submitted to a third-party researcher, to be designated by the City. Information shall include:

- i. Reports of aggregate customer demographic data that does not identify individual Users, payment methods, or their individual trip history, gathered by the system application shall be provided to the City on at least a monthly basis using anonymized keys.
- ii. Anonymized data on trips via a website dashboard, with frequency and timeliness, to inform and support safe and effective management of the Equipment, and for transportation planning efforts.
- iii. Data provided shall include:
 - a. Gender of User – (male, female, and other).
 - b. Age of User— (5-17, 18-24, 25-34, 35-44, 45- 54, 55-64, 65 and over).
 - c. Type of vehicle.
 - d. Trip record number.
 - e. Trip distance (feet and mileage).
 - f. Trip duration, to include:
 - Start date (MM, DD, YYYY);
 - End date (MM, DD, YYYY);
 - Start time (HH:MM: SS (00:00:00- 23:59:59));
 - End time (HH:MM: SS (00:00:00- 23:59:59));
 - Start location (Census block); and
 - End location (Census block).
 - g. Fleet Vehicle Unique ID number.
 - h. Information relating to Fleet Vehicle availability:
 - Fleet Vehicle GPS Coordinate (X, Y);
 - Availability duration (Minutes);
 - Availability Start date (MM, DD, YYYY);

- Availability Start time (HH:MM: SS (00:00:00- 23:59:59)); and
- Availability End time (HH:MM: SS (00:00:00- 23:59:59)).

9. Safety.

9.1. All Fleet Vehicles must meet local, State, and Federal standards for manufacture, safety, financial responsibility, and registration.

9.2. Each Fleet Vehicle shall be limited to use by the number of persons upon or within such vehicle, including the operator, which it was designed to carry.

9.3. Licensee shall limit Users to persons aged eighteen (18) and older.

9.4. *Equipment Standards.*

- a. All Fleet Vehicles shall meet the North Carolina General Statutes (NCGS) requirements for lights during hours of darkness, including a front light that emits white light and a rear red reflector as described in NCGS §20-129, and all other applicable requirements of State law.
 - b. All Fleet Vehicles shall comply with the applicable equipment and vehicle registration requirements of Chapter 20 of the NCGS.
 - c. Every Fleet Vehicle shall have a unique identification number that is clearly displayed and visible to the User and to enforcement officers at a distance of ten feet (10'). Individual identification numbers must measure a minimum of at least $\frac{3}{4}$ " in height.
 - d. The handle bars of each Fleet Vehicle shall prominently display the phrase "No Riding on Sidewalk."
 - e. Every Fleet Vehicle shall have a customer service number that is in service at all operating hours that is clearly displayed on the Fleet Vehicle and visible to the User.
 - f. All Fleet Vehicles must be equipped with technology, such as GPS, that allows Fleet Vehicles to be located and tracked by the Licensee at all times.
- 9.5. Any inoperable or unsafe Fleet Vehicle shall be removed immediately from the City of Raleigh Right-of-Way, and in no case more than two (2) hours from notice, given by any means to the Licensee by any individual or entity, or if the inoperable or unsafe condition of the Fleet Vehicle is known, or would be reasonably known, to Licensee or to an agent or employee of Licensee; said vehicle shall be repaired before it is placed back into the City of Raleigh Right-of-Way.

9.6. Licensee specifically authorizes the City, in the City's sole discretion, without prior notice, and at the expense of the Licensee, to remove any Fleet Vehicle that interferes with pedestrian or vehicular traffic, obstructs the City of Raleigh Right-of-Way, interferes during an emergency, or in circumstances where there is a special need for prompt action to protect and maintain the public health, safety and welfare, or as otherwise permitted by law. The City will endeavor to notify the Licensee as soon as reasonably practicable after removal.

9.7. Licensee shall be responsible for all costs incurred by the City in the removal and/or storage of Fleet Vehicles that have been improperly parked, the removal and/or storage of Fleet Vehicles that have been impounded due to use in violation of local, State, or Federal law, and all other costs incurred by the City relating to the use of the Equipment. If the City incurs any costs of abatement, removal, or costs to repair or maintain public property arising from the operations of the Licensee, upon receiving written notice of such City costs, the Licensee shall reimburse City for such costs within thirty (30) days.

10. Additional Remedies.

The City will monitor the degree to which Licensee, its Users, agents, employees, contractors, independent contractors, and subcontractors comply with applicable laws, including, but not limited to, those related to riding on sidewalks, age requirements, and safe parking of scooters.

If the City, in its sole discretion, determines that there is not sufficient compliance with applicable laws, the City may require Licensee to take corrective actions identified by the City, including but not limited to, reducing the number of allowed Fleet Vehicles operated by Licensee within the City, requiring Licensee to stop violations by particular Users, implementing educational campaigns, reducing the maximum speed of Licensee's Fleet Vehicles, providing Licensee's agents to monitor locations with repeated complaints, limiting areas within the City where Licensee is permitted to operate, directing removal of particular pieces of Equipment, imposing (with 7 days' advanced notice) civil penalties for Licensee's violation of the terms of this Agreement, and/or instituting legal action to include injunctive relief.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed under seal effective the day and year first above written.

THE CITY OF RALEIGH

ATTEST:

By: _____

By: _____

Name: Ruffin L. Hall

Name: Gail G. Smith

Title: City Manager

Title: City Clerk

Date of signature: _____

(LICENSEE)

ATTEST:

By: _____

(Seal) By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date of signature: _____

THIS INSTRUMENT APPROVED AS TO FORM:

City Attorney

STATE _____
_____ COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated:

_____.

Date: _____

Signature of Notary Public

Printed Name: _____

My Commission expires: _____

NORTH CAROLINA
COUNTY OF WAKE

CITY ACKNOWLEDGEMENT

This is to certify that on the ____ day of _____, 20____, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk, and Ruffin L. Hall is the City Manager of the City of Raleigh, the municipal corporation described herein and which voluntarily executed the foregoing; that she knows the corporate seal of said municipal corporation; that the seal affixed to the foregoing instrument is said corporate seal, and the name of the municipal corporation was subscribed thereto by the said City Clerk and Treasurer and that the said seal was affixed, all by order of the governing body of said municipal corporation, and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and official seal, this the ____ day of _____, 20____.

(OFFICIAL SEAL)

Notary Public: _____

My Commission expires: _____