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Cheryl Brinkman, Chairman
Malcolm Heinicke, Vice Chairman
Gwyneth Borden, Director
Amanda Eaken, Director

Lee Hsu, Director
Cristina Rubke, Director
Art Torres, Director

Edward D. Reiskin, Director of Transportation

Powered Scooter Share Permit Terms and Conditions

(Capitalized terms shall have the meanings set forth in Sections 901 and 916 of the San Francisco Transportation Code)

October 12, 2018

Permittee agrees to abide by and comply with the following terms and conditions in the operation and administration of Permittee's Powered Scooter Share Program.

I. General Requirements

1. If the SFMTA, Public Works, or any other City agency, department, or commission, including the City Attorney's Office, incurs any costs for addressing or abating any violations of law, including repair or maintenance of public property, the Permittee, upon receiving written notice from the SFMTA regarding such costs, shall reimburse the SFMTA for these costs within thirty days. Any payment made pursuant to this paragraph shall not substitute for any installment payment otherwise owed or to be paid to the SFMTA. If the Permittee fails to reimburse the SFMTA within thirty days, the SFMTA may draw down the public property repair and maintenance endowment established at the outset of this permit.
2. Permittee agrees to maintain the public property repair and maintenance endowment established at permit issuance. The endowment at permit issuance shall total ten thousand dollars (\$10,000) and should the value at any point fall below \$5,000, the Permittee must replenish to the original level of \$10,000 to maintain their permit.
3. The SFMTA reserves the right to terminate any permit issued if the permittee violates any terms of the permit or is found to have misrepresented any aspect of their application.
4. A permit may not be transferred without the prior written approval of the Director of Transportation. Permittee shall promptly notify SFMTA of any changes to Permittee's corporate structure or ownership. Failure to do so, shall be cause for revocation of the permit. For purposes of this paragraph, "transfer" shall include the sale or other exchange of 50% or more of the ownership or control of a permittee to a third party.
5. Permittee shall indemnify and save harmless the City and County of San Francisco and the Port of San Francisco and their officers, employees, and agents (collectively, "Indemnitees") from, and if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Permittee, or loss of or damage to property, arising directly or indirectly from the activity authorized by the Permit, including, but not limited to, Permittee's use of facilities or equipment provided by City or Port or others, and claims brought by customers of Permittee, regardless of the



negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City or Port, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Permit, and except where such loss, damage, injury, liability or claim is the result of the gross negligence or willful misconduct of City or Port and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Permittee, its sub-permittees or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's or Port's costs of investigating any claims against the City or Port. In addition to Permittee's obligation to indemnify City and Port, Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and Port from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by City or Port and continues at all times thereafter. Permittee shall indemnify and hold City and Port harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City or Port, or any of its officers or agents, of articles or services to be supplied in the performance of this Permit.

6. Insurance Requirements.

A. Required Coverages. Without in any way limiting Permittee's liability pursuant to the "Indemnification" section of these Permit Terms and Conditions, Permittee must maintain in force, during the full term of the Permit, insurance in the following amounts and coverages:

- i. Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- ii. Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence and \$4,000,000 general aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- ii. Commercial Automobile Liability Insurance with limits not less than \$2,000,000 each accident, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- iv. Professional liability insurance, applicable to Permittee's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with the Services.
- v. Permittee shall maintain in force during the full life of the agreement Cyber and Privacy Insurance with limits of not less than \$2,000,000 per claim.



Such insurance shall include coverage for liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or personal information, such as name, address, social security numbers, protected health information or other personally identifying information, stored or transmitted in electronic form.

vi. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

a. Name as Additional Insured the City and County of San Francisco, the SFMTA, and the Port of San Francisco and their Officers, Agents, and Employees.

b. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Permit, and that insurance applies separately to each insured against whom claim is made or suit is brought.

B. All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages.

C. Should any of the required insurance be provided under a claims-made form, Permittee shall maintain such coverage continuously throughout the term of this Permit and, without lapse, for a period of three years beyond the expiration of this Permit, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Permit, such claims shall be covered by such claims-made policies.

D. Should any required insurance lapse during the term of this Permit, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Permit, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Permit effective on the date of such lapse of insurance.

E. Before commencing any services, Permittee shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Permittee's liability hereunder.

F. The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Permittee, its employees, agents and subcontractors.

G. If Permittee will use any subcontractor(s) to provide services, Permittee shall require the subcontractor(s) to provide all necessary insurance and to name the



City and County of San Francisco, the Port of San Francisco and their officers, agents and employees and the Permittee as additional insureds.

7. Possessory Interest. Permittee acknowledges that this Permit may create a “possessory interest” for property tax purposes. Generally, a possessory interest is created if the Permit entitles the Permittee to possession, occupancy, or use of City property for private gain or benefit. If such a possessory interest is created, then:
 - A. Permittee, on behalf of itself and any permitted successors and assigns, recognizes and understands that Permittee, and any permitted successors and assigns, may be subject to and shall pay all real property tax assessments on the possessory interest.
 - B. Permittee, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, assignment, or other transfer of this Permit may result in a “change in ownership” for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Permit. Permittee accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor, within 30 days of the creation, extension, renewal, assignment, or other transfer of this Permit (whether or not a possessory interest exists or a change in ownership occurs), the information required by Revenue and Taxation Code section 480.5 and San Francisco Administrative Code section 23.39, as amended from time to time, and any successor provision.
 - C. Permittee, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of a possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Permittee accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.
 - D. Permittee further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.
8. Permittee shall comply with all applicable federal, state, and local laws, including but not limited to, the San Francisco Transportation Code, the California Vehicle Code, and local wage requirements.
9. Permittee agrees to limit the total number of their scooters parked or in use in San Francisco to the number assigned by the SFMTA in their permit. This number shall include the total number of scooters that are either being rented or that have been left on public property, whether they are available for hire, or whether they are unavailable due to needing recharging or other maintenance.



10. Permittee shall provide compliance reports to the SFMTA at 3, 6, and 12 months from permit issuance documenting the permittee's implementation of the plans proposed in their application.
11. Six months from the date of permit issuance, and again one year from the date of permit issuance, Permittee shall provide a summary of wastes generated, including salvaged parts and their disposition.
12. Permittee shall maintain, and provide to SFMTA upon request, documentation such as a log, receipt, or bill of lading showing that all damaged and unusable Powered Scooter batteries are recycled, and the destination(s) of such batteries

II. Customer Service Requirements

13. Permittee shall provide the SFMTA with an up to date contact name and direct phone number for staff that are responsible for collecting and rebalancing Powered Scooters.
14. Upon notification by the City of any Powered Scooter belonging to a Powered Scooter Share Program Operator that is improperly parked, left standing, or unattended on any sidewalk, Street, or public right-of-way under the jurisdiction of the City, the Powered Scooter Share Operator shall remove the scooter within one hour.
15. Permittee shall have a customer service phone number, staffed seven days a week during hours when permittee has scooters in the public right of way, for customers to report safety concerns, complaints, or ask questions. Permittee must have a way to receive and respond to feedback in multiple languages, including, but not limited to, Chinese and Spanish.
16. Customers using Powered Scooters in that are permitted under this program must be provided with a mechanism to notify the Permittee that there is a safety or maintenance issue with the Powered Scooter.

III. Equitable Service Requirements

17. Permittee shall maintain a multilingual website and app in languages including, but not limited to, Chinese and Spanish
18. Permittee shall offer a low-income customer plan that waives any applicable Powered Scooter deposit and offers an affordable cash payment option to any customer with an income level at or below 200% of the federal poverty guidelines, subject to annual renewal. CalFresh, PG&E Care and Muni Lifeline eligibility are acceptable income verification proxies for affordability memberships.
19. Mobile apps and other customer interface technology must be fully accessible to persons with disabilities and accessible to screen readers, and must comply with Section 508 of the United States Workforce Rehabilitation Act of 1973.
20. The SFMTA must approve the number of permitted scooters and the service area for each Permittee, and must approve any proposed changes in writing prior to the Permittee implementing any changes.



IV. User Protections

21. Permittee must employ an electronic payment system that is compliant with the Payment Card Industry Data Security Standards (PCI DSS).
22. Permittee must provide a Privacy Policy that safeguards customers' personal, financial, and travel information and usage including, but not limited to, trip origination and destination data. Permittee agrees to make its policies, procedures and practices regarding data security available to the SFMTA, upon request, and further agrees that the SFMTA reserves the right to hire a third party to perform a security audit mid-way through the permit term, or at any time SFMTA determines that an audit is warranted.
23. Permittee must provide customers the opportunity to explicitly assent to any privacy policy, terms of service, or user agreements. Separately, customers must have the ability to decline sharing any data not required to enable the Permittee to process and complete the transaction. The customer's options with regard to these requirements shall be clearly stated and easily accessed by the customer.
24. Permittee shall produce a Privacy Policy that complies with the California Online Privacy Protection Act (CalOPPA) and any data protection laws applicable to minors, and further, expressly limits the collection, storage, or usage of any personally identifiable information to the extent absolutely required to successfully accomplish the provision of a powered scooter transportation service. For purposes of this permit, "personally identifiable information" or "personal data" shall be defined under CalOPPA. Without limitation to other permitting provisions requiring anonymized origin/destination and route data for solely public purposes set forth by the City and County of San Francisco, Permittee may not make any personal data of program participants in San Francisco available to any third party advertiser or other private entity, including another entity that may be affiliated with or jointly owned by the entity that owns Permittee.
25. Permittee shall not claim any legal right in its Terms of Use, Privacy Policy, or elsewhere to institute retroactive changes to its Privacy Policy and shall provide an opportunity for the customer to explicitly assent prior to any changes to its data practices, including uses of data Permittee collected under a prior policy.
26. Permittee may not collect Personal Data related to, nor sort Personal Data nor individual data subjects according to race, gender, religion, national origin, age, or sexual orientation except for survey data collected on an opt-in basis and for a public purpose expressly set forth by SFMTA. Permittee may not deny service to any user on the basis of their refusal to provide any such survey information. The SFMTA shall consult the Human Rights Commission if it receives any complaints based upon any potential violations of this provision.
27. Permittee must disclose any and all existing data sharing agreements and must notify SFMTA in advance of any prospective partnership, acquisition or other data sharing agreement. Permittee may not engage in or facilitate any inter-app operability or other form of private partnership that includes data acquisition or



other data sharing model with any entity if the entity does not meet the standards set forth herein.

V. Vehicle Specifications:

28. The current contact phone number for the Powered Scooter Share Operator Customer Service line shall be prominently displayed on all Shared Power Scooters.
29. A unique identification number shall be prominently displayed on both sides of the Shared Powered Scooter.
30. Each scooter shall be equipped with an on-board GPS device capable of providing real-time location data in accordance with the specifications described in the "Data Sharing Requirements" section of this application.
31. All Powered Scooters shall be equipped with equipment meeting all specifications, including but not limited to brakes, reflectors, and lighting as set forth in California Vehicle Code Sections 21220 – 21235 (Operation of Motorized Scooters).
32. All Powered Scooters must be certified as safe to operate under any applicable standard by Underwriters Laboratories or an equivalent safety rating agency.

VI. Safe Riding and Storage of Scooters

33. Permittee shall be responsible for educating their employees and Powered Scooter Share users regarding state and local laws governing the safe operation and parking of Powered Scooters in San Francisco. This shall include providing notification about key laws governing operation on each scooter.
34. If the SFMTA determines in its sole discretion that the Permittee's users' failure to comply with applicable laws governing the safe operation and parking of Powered Scooters, including but not limited to, laws governing the use of helmets, operation on sidewalks, and parking requirements, has created a threat to public health and safety, such determination shall be grounds for permit suspension or revocation at the discretion of the Director.
35. Shared Powered Scooters shall be parked standing upright and outside the path of travel in the furnishing zone. The SFMTA has provided detailed specifications to clarify existing City regulations prohibiting obstruction of the right of way, attached as Appendix I to these Terms and Conditions. The Permittee shall instruct customers how to park a Powered Scooter properly.

VII. Distribution of Scooters

36. Permittee is responsible for monitoring distribution of Powered Scooters available to customers according to parameters proposed by the Permittee through this application and approved by the SFMTA. Each daily scooter deployment must match agreed upon parameters for the number of scooters within sub-areas of the permittees approved service area.
37. Permittee shall stop placing scooters or allowing contractors to place scooters in front of any address provided by the SFMTA, within 48 hours of notice.



38. Permittee shall apply geofencing specifications provided by the SFMTA to prohibit parking/locking scooters in specified areas or to direct users to specified designated parking area (e.g., at an event venue), within one week of notice.
39. During deployment and rebalancing, employees and contractors of the Permittee shall obey the following Operating Guidelines:
 - A. *Muni priority*: Muni buses shall be given priority at and approaching or departing transit stops;
 - B. *Yield to Muni*: Where Muni or other public transit buses are approaching a transit stop and when safe to do so, Permittee's employees or contractors shall allow such buses to pass so they may stop at transit stops;
 - C. *Red zones*: Vehicles operated by Permittee shall not stop or stand in Muni stop "red zones";
 - D. *Active loading; No staging or idling*: Permittee's employees and contractors shall only stage vehicles at locations in accordance with applicable parking laws and regulations;
 - E. *Pull in*: Permittee's employees and contractors shall pull support and rebalancing vehicles all the way up to, and parallel with, the curb for scooter loading and unloading, and shall not load or unload scooters in a vehicle or bicycle lane, or in a manner that impedes travel in these lanes;
 - F. *Comply with all applicable laws*: Permittee's employees and contractors shall comply with all applicable state, and local laws, including the San Francisco Transportation Code, and the California Vehicle Code. If the SFMTA in its sole discretion determines that a Permittee's scooter distribution or collection activities are being performed in an unsafe manner or in violation of applicable parking and traffic laws, this determination shall be grounds for permit revocation.
40. Distribution, Operation and Maintenance Plan: Permittee shall provide the SFMTA with a Distribution, Operation and Maintenance Plan that describes Permittee's commitment to maintain consistent distribution, operations and maintenance and avoid potential disruptions. The Plan must include at a minimum:
 - A. How the permittee's publicly-available fleet will be kept in a state of good repair to ensure their services are a dependably safe, viable, and reliable component of the transportation system.
 - B. How permittee will insure equitable geographic distribution including how scooters will be frequently redistributed by operations staff to serve as a viable transportation option for all communities in a service area, especially for Communities of Concern which have historically had fewer mobility options.
 - C. How any breakdown in distribution, operation and maintenance will be remedied quickly so as not to impact service by the Permittee to its users, impact public transit, or impede the free flow of traffic;



D. Sufficient back-up employee or contractor staffing in the event that employees or contractors are unable to work due to sickness or other reason; and

E. Provide a labor harmony plan. Labor harmony is critical for the provision of powered scooter share services in the context of safety and maintenance, as well as equitable geographic device distribution. The permittee shall include a description of the means by which Permittee has considered labor and labor harmony in its operations specifically as it relates to consistent distribution, operation and maintenance, including steps taken to avoid potential disruptions. Permittee shall provide in its Plan any agreements or documents evidencing such steps, as well as information regarding employee work hours, working conditions, and wages.

F. The Distribution, Operation and Maintenance Plan may, but is not required to, include statements from third parties describing the Applicant's efforts to prevent disruptions in distribution, operation, and maintenance.

G. The SFMTA will post the Distribution, Operation and Maintenance Plan for each Permittee on the SFMTA website.

H. The Permittee shall provide prompt notice to SFMTA of any labor disruption that impacts the Distribution, Operation and Maintenance Plan or any aspects of its operations.

VIII. Data Sharing Requirements

41. Permittee agrees that the SFMTA may use a third-party researcher to evaluate the Powered Scooter Share Program. Permittee shall share all data with the third-party researcher necessary for purposes of the evaluating or enforcing the requirements in this permit.
42. Permittee shall administer two customer surveys within the permit year, using questions provided by the SFMTA. The survey will include questions regarding travel behavior and basic socioeconomic indicators that will help SFMTA evaluate how the provider's services support the agency's goals for transportation in San Francisco.
43. Permittee shall keep a record of maintenance activities, including but not limited to Powered Scooter identification number and maintenance performed. These records shall be sent to the SFMTA on a monthly basis.
44. Permittee shall make available real-time and archival information for their entire San Francisco Powered Scooter fleet. This data will ensure the SFMTA can successfully manage the Scooter Program and execute related planning efforts in support of the agency's strategic goals. Data provided will include real-time location, event, and status information provided by on-board GPS devices put on all Powered Scooters, anonymized data for each trip record, historic/archival data, and key system information. Real-time data will be shared via documented APIs. The SFMTA will also provide details regarding historic/archival transfer protocols, including the frequency and schedule for data to be delivered. Except as otherwise



provided herein, Permittee will not share personally identifiable information with the SFMTA. At a minimum, providers will supply:

- A. Vendor/operator information
 - B. Daily drop-off locations or aggregation sites/zones
 - C. System alerts
 - D. Pricing plans
 - E. Real-time location, event, and status information
 - F. Trip-level details including start/end location/time, duration, and distance traveled
 - G. Trip-level breadcrumb trails listing all GPS readings for each scooter
 - H. Vendor calendars detailing planned hours of operation and planned exceptions
45. The Permittee is directly responsible for providing the API key to the SFMTA and shall not refer the City to another subsidiary or parent company representative for API access. The SFMTA shall be permitted to publicly use Permittee's API and display real-time data.
46. Permittee shall provide monthly reports of all calls and emails received through their customer service hotline and contact email including telephone wait times, email response times, and the nature of the customer inquiry.
47. Permittee shall submit any collected aggregate user demographic data gathered by the system application that does not identify individual users, payment methods or individual trip history, to the SFMTA not less than monthly, using anonymized keys.
48. Permittee shall share personally identifiable information in Permittee's possession about a Powered Scooter user with the City where there is an injury alleged to be related to a Powered Scooter, or a claim or lawsuit against the City and the scooter user may have information about, or responsibility for, the claim.