

INTERIM OPERATING AGREEMENT FOR IMPLEMENTATION OF A SHARED ACTIVE TRANSPORTATION OPERATION

This Interim Operating Agreement (the “Agreement”) is entered into as of January ____, 2019 (“Effective Date”) by and between _____ located at _____ (“Company”), and the City of Decatur, Georgia located at 509 North McDonough Street, Decatur, Georgia 30030 (the “City”).

1. Statement and Purpose

The purpose of this Agreement is to establish interim rules and regulations governing the operation by Company of electric foot scooter sharing systems within the City and to ensure that such mobility sharing systems are consistent with the safety and well-being of bicyclists, pedestrians, and other users of the public right-of-way.

2. Scope

This Agreement applies to any proposed deployment of electric foot scooter sharing systems by Company within the City’s jurisdictional boundaries.

3. Term

- a. This agreement shall commence on the Effective Date and shall remain in effect for a period of ninety (90) days and shall automatically renew for successive one month terms thereafter unless terminated by either party with thirty (30) days written notice.
- b. Except where specifically provided for elsewhere in this Agreement, in the event Company shall default in any of the covenants, agreements, commitments, or conditions herein, or if any of the conditions set forth herein shall occur, and any such default shall continue unremedied for a period of three (3) business days after written notice thereof to Company, City may have the right to immediately terminate this contract and all rights of Company under this agreement.

4. Procedures

While this Agreement is in effect, City grants to Company non-exclusive, revocable permission to operate an electric foot scooter sharing system within City’s jurisdictional boundaries to Company, subject to and contingent upon compliance with the terms of this Agreement.

5. Operating Regulations

- a. Company acknowledges, understands and concurs with the following interim regulations for operating electric foot scooters. “Electric foot scooter” shall mean a device weighing less than 100 pounds, with two or three wheels, handlebars and a floorboard that can be stood upon while riding, and is solely powered by an electric motor and/or human power that is capable of propelling the device with or without human propulsion on a paved level surface.

- b. Electric foot scooters are not to be ridden on sidewalks. Electric foot scooters are to be ridden on streets, and where available, in bike lanes and bike paths. Electric foot scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths.
- c. Company shall provide easily visible contact information, including a twenty-four (24) hour toll-free phone number and/or e-mail address on each electric foot scooter for members of the public to make relocation requests or to report other issues with devices.
- d. Company shall also provide City with contact information of a locally-based manager/operation staff with decision making power who can respond to City requests, emergencies, and other issues twenty-four (24) hours a day seven (7) days per week.
- e. Company shall not operate within the city limits of the City of Decatur at any given time more than a total of seventy-five (75) electric foot scooters (“Fleet”). Within the total Fleet allotment, the Company can deploy up to fifty (50) electric foot scooters within a one-mile radius of One West Court Square. City may request data from Company on a weekly basis to determine and demonstrate the utilization rate of devices in Company’s fleet within the city limits of the City of Decatur. Company may increase or decrease the Fleet size only with the City’s written approval if usage data demonstrates an average use of two rides per scooter per day. The City may deny a request to increase the Fleet size at its sole discretion.
- f. In addition to any taxes and fees imposed by City’s Code of Ordinances to operate a business, Company shall remit a regulatory fee of \$4,000 annually. Such fees shall be remitted within thirty (30) days of the Effective Date.
- g. Company shall ensure that the head-lights and tail-lights are operational every morning to improve safe ridership.

6. Parking Regulations. Company acknowledges, understands and concurs with the following interim regulations for parking electric foot scooters:

- a. Users shall not park electric foot scooters in the street.
- b. Users shall only park electric foot scooters upright on hard surfaces in the landscape zone of the sidewalk, beside a bicycle rack or in another area specifically designated for bicycle or electric foot scooter parking.
- c. Users shall not park electric foot scooters in such a manner as to block the pedestrian clear zone area of the sidewalk; any fire hydrant, call box, or other emergency facility; crosswalk; pedestrian call button; bus bench; or utility pole or box.

- d. Users shall not park electric foot scooters in such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building.
- e. Users shall not park electric foot scooters in such a manner as to impede or interfere with the reasonable use of any bicycle rack or news rack.
- f. Users shall park electric foot scooters on blocks without sidewalks only if the travel lane(s) and 6-foot pedestrian clear zone are not impeded.
- g. Users shall not park electric foot scooters in the landscape zone directly adjacent to or within the following areas, such that access is impeded:
 - i. Bus stop clear zones - a bus stop clear zone of 40 feet long by 8 feet wide for transit stops served by only one route. When signage indicates the presence of two or more bus routes at a transit stop, an additional 40 feet of curb length per route should remain clear;
 - ii. Loading zones;
 - iii. Disabled parking zone;
 - iv. Street furniture that requires pedestrian access (for example - benches, parking pay stations, bus shelters, transit information signs, etc.);
 - v. Curb ramps;
 - vi. Entryways; and
 - vii. Driveways.
- h. Company may stage its electric foot scooters in permitted parking areas as described in this section. To the extent Company desires to stage electric foot scooters in areas other than the public right-of-way (e.g. parks, plazas, parking lots, private property, or transit stations), Company must first obtain the right to do so from the appropriate City department, property owner, or public agency.

7. Operations

- a. Company shall maintain 24-hour customer service for customers to report safety concerns, complaints, or to ask questions. Company will maintain a multilingual website, call center, and/or mobile app customer interface that is available twenty-four (24) hours a day, seven (7) days a week. The aforementioned shall be compliant with the Americans with Disabilities Act.
- b. Company will implement a marketing and targeted community outreach plan at its own cost or pay an in-lieu-of fee determined by the City for the City to provide these services and promote the use of electric foot scooter sharing citywide, particularly among low-income communities. Company will keep City informed of the targeted community outreach plan updates.
- c. Company shall work with local businesses or other organizations to promote the use of helmets by system users through partnerships, promotional credits, and other incentives.

- d. In the event a safety or maintenance issue is reported for a specific device, that electric foot scooter shall be made unavailable to users and shall be removed within the timeframes provided herein. Any inoperable or unsafe device shall be repaired before it is put back into service. The City shall not have any obligations with regards to the maintenance of the electric foot scooters.
- e. Operating hours are from 6:00 a.m. to 9:00 p.m.
- f. Electric foot scooters shall be governed at a speed not to exceed eighteen (18) miles per hours on a paved level surface.
- g. Company shall respond to requests for rebalancing, reports of incorrectly parked electric foot scooter, or reports of unsafe/inoperable electric foot scooters by relocating, re-parking, or removing the electric foot scooters, as appropriate, within three (3) hours of receiving notice, if notified between 7:00 a.m. to 7:00 p.m. and within twelve (12) hours of receiving notice, if notified between 7:00 p.m. and 7:00 a.m. After the allowed time frame, the City may assess a penalty of \$75 for each electric foot scooter it impounds. City does not guarantee security of any impounded electric foot scooters. City shall notify the Company of the impounded electric foot scooters and their location. In such instances, Company shall retrieve electric foot scooters from City within ten (10) business days of receiving notice. If the Company does not retrieve the electric foot scooters by close of business on the fifth business day after notice has been provided, the City may dispose of any electric foot scooters by any method at the discretion of the City and the City may invoice the Company for the cost of disposal. Company agrees to pay such invoice within ten (10) business days of receipt.
- h. Company shall provide written notice to all users by means of signage and through mobile and web applications that:
 - i. Riders must be of age 18 years or older;
 - ii. Electric foot scooters are to be ridden on streets, and where available, in bike lanes and bike paths;
 - iii. Electric foot scooters are to stay to the right of street lanes and to offer the right of way to bicycles on bike lanes and bike paths;
 - iv. Helmets are required for all users;
 - v. Only one rider shall ride on an electric foot scooter;
 - vi. Parking is limited to the designated areas;
 - vii. Riding responsibly is required;
 - viii. Riders may be ticketed for operating the electric foot scooters in a manner which violates the City's Code of Ordinances and/or Georgia Traffic Regulations; and
 - ix. That operating an electric foot scooter is at the sole discretion of the operator and that the City of Decatur assumes no liability for road conditions or injury to the operator.
- i. Company shall provide education to electric foot scooter riders on the City's existing rules and regulations, safe and courteous riding, and proper parking.

- j. On days when a weather related emergency declaration (ice, snow, rain, flooding, etc.) is made that includes the City of Decatur, Company will halt Operations completely. On days where snow or ice accumulates greater than ½ inch, Company shall remove its electric foot scooters from City. Company agrees to hold City harmless for damage to electric foot scooters caused by City's inclement or emergency weather response operations.
- k. Company shall embrace transparency in recycling efforts and recycle or otherwise dispose of electric foot scooters and equipment parts in an environmentally friendly manner at end of life-cycle.

8. Data Sharing

Subject to reasonable restrictions for the protection of confidential, proprietary and personal information:

- a. Company shall provide the City with real-time information on the entire City fleet through a documented application program interface (API) built to Mobility Data Specification (MDS). The MDS API will provide standardized data that contains information with respect to individual rides, including without limitation: start-time, end-time, start location, end location, route information, vehicle ID, and total trip distance.
- b. Company shall provide the City with access to a dashboard which provides aggregate, anonymized data on the distance and duration of trip activity within the City. Such dashboard may include maps of real time availability and heat maps allowing for analysis of rides taking place within certain geographic portions within municipal city limits.
- c. Company shall provide the City with rider-reported collision data which will include, but is not limited to, Vehicle ID, Time, Date, and Location.

9. Insurance

Company shall at all times during the term of this Agreement, at its own cost and expense, procure and continue in force: (1) Workers' Compensation Insurance as required by Georgia law and (2) Commercial General Liability Insurance providing coverage on an occurrence basis with limits of not less than \$1,000,000 each occurrence for bodily injury and property damage combined, \$2,000,000 products and completed operations annual aggregate. The Company's liability insurance policy or policies will: (i) include premises and operations liability coverage, products and completed operations liability coverage, broad form property damage coverage including completed operations, blanket contractual liability coverage including, to the maximum extent possible, coverage for the indemnification obligations of the Company under this Agreement, and personal and advertising injury coverage; (ii) provide that the insurance company has the duty to defend all insureds under the policy; (iii) provide that defense costs are paid in addition to and do not deplete any of the policy limits; and (iv) cover liabilities arising out of or incurred in connection with the Company's and its agents', employees',

contractors', licensees', affiliates', customers', invitees' and/or other representatives' operation of electric foot scooter sharing systems within the City. The City of Decatur shall be named as an additional insured on the Commercial Liability Policy. All policies shall be written by insurers licensed to do business in the State of Georgia and acceptable to the City, with a current A.M. Best rating of no less than A-VII. Certificates of insurance evidencing the existence and amounts of such insurance shall be delivered to the City within three (3) business days of the Effective Date.

10. Indemnification

Company agrees to defend, indemnify, and hold harmless the City, its officers, elected and appointed officials, employees, agents, volunteers, and insurers (the "Indemnitees") from and against all claims, damages, losses, expenses, fines, penalties, judgments, demands, and defense costs (including, without limitation, actual, direct, out-of-pocket costs and expenses, and amounts paid in compromise, settlement, or judgment, and legal fees arising from any claim or litigation of every kind or nature or liability of any kind or nature including, civil, criminal, administrative or investigative) (collectively, "Indemnified Claims") arising out of, in connection with, or which are in any way related to Company's operation of electric foot scooter sharing systems within the City, any violations of any laws by the Company (including its officers, managers, employees, contractors, agents, and volunteers) or its users, or any bodily injury including death or damage to property arising out of or in connection with any use, misuse, placement, or misplacement, including but not limited to placement or misplacement resulting in alleged violations of the Americans with Disabilities Act, or Company's device, property, or equipment by any person, except such loss or damage caused by the negligence or unlawful or wrongful acts or omissions of the Indemnitees. Company will conduct all defenses pursuant to this Agreement at Company's sole cost and expense, and City shall reasonably approve selection of the counsel to represent the Indemnitees as proposed by the Company. This Agreement shall apply to all claims and liability regardless of whether any insurance of Company, its affiliates or other parties are applicable thereto. The policy limits of any insurance of Company, its affiliates, or other parties are not a limitation upon the obligation of Company, including, without limitation, the amount of indemnification to be provided by Company. The provisions of this section shall survive termination of this Agreement.

11. Notices

All notices and demands of any kind that either party may be required or may desire to give to the other in connection with this Agreement must be given by hand delivery or by registered or certified mail, return receipt requested, with postage fully prepaid, and addressed to the party to be served at the party's address as set forth below:

If to City

City of Decatur
509 N. McDonough Street
Decatur, GA 30030
Attention: City Manager

If to Company: Name:
 Street Address:
 City, State Zip Code:
 Attention:

Any notice shall be deemed received on first attempted delivery.

12. Governing Laws

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

13. Effect on Existing Laws

This Agreement is not intended in any way to supersede, modify or invalidate any ordinance of the City of Decatur, specifically including, but not limited to, Chapters 86 and 98 of the Code of Ordinances of the City of Decatur, or any provision of Georgia law, specifically including, but not limited to, Title 40 of the Official Code of Georgia.

Authorized Company Signatory
Title:
Date:

City of Decatur, GA
City Manager
Date:

Approved to form:

Chief Legal Officer
Date:

City Attorney
Date: