

## Agreement

This Agreement (“**Agreement**”) is made by \_\_\_\_\_ (“**Permit Holder**”) for the benefit of the City of El Paso pursuant to the requirements of Section 15.08.150 of the El Paso City Code.

**WHEREAS**, the Permit Holder seeks to place Shared Use Mobility Devices on the right of way for the sole profit of the Permit Holder; and

**WHEREAS**, the taxpayer should not be burdened by claims resulting from the Permit Holder’s operations on the public right of way.

The Permit Holder agrees as follows:

**Section 1. Definitions.** All defined terms appear in boldface print when first defined. If not defined in this Agreement, then the definitions in Section 15.08.150 of the El Paso City Code apply.

**Section 2. Representations and Warranties.** The Permit Holder represents and warrants that the Permit Holder is the sole owner of the Shared Use Mobility Devices under permit application number \_\_\_\_\_.

**Section 3. Indemnification and Release Requirements.**

**THE PERMIT HOLDER WILL INDEMNIFY, DEFEND, AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF, INVOLVING, OR RELATED TO A SHARED USE MOBILITY DEVICE OWNED BY THE PERMIT HOLDER, EVEN WHERE SUCH DAMAGE, INJURY, LOSS, ILLNESS, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICE, OR DEATH RESULTS FROM OR INVOLVES NEGLIGENCE, OR ALLEGATIONS OF NEGLIGENCE ON THE PART OF THE CITY, ITS OFFICERS, AGENTS, OR EMPLOYEES, OR IS CAUSED BY ANY OBJECT, CONDITION, OR DEFECT ON THE PUBLIC RIGHT OF WAY. Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Permit Holder every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. Without modifying any obligations above, the Permit Holder will within 30 calendar days of receiving a claim: 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; and 2) resolve the claim. Regardless of the disposition/resolution of a claim, the Permit Holder must promptly defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. Permit Holder will pay all judgments finally establishing liability of the City in actions defended by Permit Holder**

**pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by Permit Holder, and premiums on any appeal bonds. The City, at its election, will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. THE PERMIT HOLDER ACKNOWLEDGES AND AGREES THAT THE CITY IS NOT RESPONSIBLE FOR ANY LOSS OR DAMAGE TO PERMIT HOLDER'S PROPERTY REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE IS CAUSED BY A DEFECT IN THE CITY RIGHT OF WAY, BY ANY NEGLIGENCE BY ANY EMPLOYEE, OFFICER, OR AGENT OF THE CITY, AND/OR ANY ACTIONS BY A THIRD PARTY. TO THE EXTENT ALLOWED BY LAW, THE PERMIT HOLDER RELEASES THE CITY, THE CITY'S OFFICERS, EMPLOYEES, AND AGENTS FROM ANY AND ALL CLAIMS OF PROPERTY DAMAGE, PROPERTY LOSS, PERSONAL INJURY, ILLNESS, AND/OR DEATH THAT IS SUSTAINED BY THE PERMIT HOLDER, OR THE PERMIT HOLDER'S EMPLOYEES, AGENTS, AND/OR OFFICERS REGARDLESS OF WHETHER SUCH IS CAUSED BY A DEFECT ON THE PUBLIC RIGHT OF WAY, THE NEGLIGENCE OF THE CITY OR THE CITY'S OFFICERS, AGENTS, OR EMPLOYEES, OR ANY ACTIONS BY A THIRD PARTY.**

**Section 4.** The Permit Holder acknowledges that the indemnification obligations under this Agreement apply regardless of any user agreements between the Permit Holder and user of a Shared Use Mobility Device.

**Section 5.** The Permit Holder shall remove any and all Shared Use Mobility Devices from the public right of way pursuant to any request by the Director under Section 15.08.150 of the El Paso City Code or the rules and regulations adopted by the Director under Section 15.08.150 of the El Paso City Code. The Permit Holder agrees to pay the City of El Paso the costs incurred by the City to repair any damages to the public right of way caused by a Shared Use Mobility Device, the costs incurred by the City for removing from the public right of way any Shared Use Mobility Device, and the costs incurred by the City for the storing and disposing of any Shared Use Mobility Device. The Permit Holder will pay the costs invoiced by the City of El Paso within 30 calendar days of receiving an invoice from the City sent to the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Permit Holder may request the City to send invoices to a different address by sending a request to the City in writing in advance. The Permit Holder agrees that an invoice or notice is received by the Permit Holder as of the postmark date of the invoice/notice.

**Section 6.** This Agreement is effective as of the date signed by the Permit Holder or the date a Permit is issued by the City to Permit Holder under Section 15.08.150 of the El Paso City Code, whichever date is sooner.

**Permit Holder:**

\_\_\_\_\_

Name:

Title:

Date of Agreement and Date Signed: \_\_\_\_\_

**STATE OF TEXAS            )**

**COUNTY OF EL PASO    )**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_ 2019, by  
\_\_\_\_\_.

\_\_\_\_\_

Notary Public in and for the State of Texas

My Commission expires: \_\_\_\_\_