

PILOT OPERATING AGREEMENT

This Pilot Operating Agreement is entered into on , and is between Bound Corporation, a California limited liability company located at 45116 Commerce St, Ste 15, Indio, CA 92201 (the “**Company**”), and the City of Coachella, located at 53990 Enterprise Way, Coachella, CA 92236 (the “**City**”). Company and City may be referred to collectively as the “**Parties**” or individually as a “**Party**.”

1. Purpose

The Parties wish to establish interim rules and regulations governing the pilot operation of a stand-up electric scooters and e-bikes sharing system within the City (the “**Pilot**”), and to ensure that the Pilot is consistent with the safety and well-being of bicyclists, pedestrians, and other users of the public rights- of-way in the City.

2. Scope and Term, and Termination

This agreement applies to the proposed deployment of stand-up electric scooters and e-bikes sharing systems within City’s jurisdictional boundaries.

The term of this agreement begins on March 1, 2023, and will continue for a term of twelve (12) months and expires on March 1, 2024 (the “**Term**”). The Term is renewable for an additional twelve (12)-month period upon the request by written notice from the Company to the City at least ninety (90) days prior to the end of the Term and the City shall respond to the Company within thirty (30) days from the date of the Company’s written renewal request regarding whether it intends to renew the Agreement for an additional twelve (12)-month period.

Either Party may terminate this agreement for any reason upon thirty (30)-days’ written notice (e-mail will suffice) to the other Party (“**Termination Notice**”). The Termination Notice must include the date the notice was sent, a reason for termination, be signed by the party who signed the agreement.

Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured ten (10) days after the non-breaching Party provides the breaching Party with written notice of such breach.

Either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

3. Procedures

The Company shall comply with all the laws and regulations under the State of California Assembly Bill No. 2989, which amended Section 21235 of the California Vehicle Code and California Vehicle Code 22411, which states no person shall operate a motorized scooter at a speed more than 15 mph.

4. Operating Regulations

The Company, or its service providers, agents or assigns, shall be responsible for operating a stand-up electric scooters and e-bikes sharing program in the City that complies with the below requirements:

- a. Stand-up electric scooter means a device weighing less than 150 pounds, that has (i) has handlebars and an electric motor, (ii) is solely powered by the electric motor or human power, and (iii) has a maximum speed of no more than 20 mph on a paved level surface when powered solely by the electric motor.
- b. E-bike means a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts.
- c. Except as otherwise provided herein, City shall regulate the operation of stand-up electric scooters and e-bikes in a manner no more restrictive than the City's regulation of bicycles.
- d. Stand-up electric scooters and e-bikes are to be ridden on streets, and where available, in bike lanes and bike paths. Stand-up electric scooters and e-bikes 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. Users of Stand-up electric scooters and e-bikes shall be 18 or older. Users of stand-up electric scooters and e-bikes who violate these provisions may be fined by City consistent with fines for cyclists.
- e. Company shall provide easily visible contact information, including toll-free phone number or e- mail address on each stand-up electric scooters or e-bikes for members of the public to make relocation requests or to report other issues with devices.
- f. Hours of operation when the Company's stand-up electric scooters and e-bikes will be made available to rent 24 hours a day.
- g. Company shall provide a minimum of 100 vehicles at launch.
- h. When at cap, the Company is permitted to increase its fleet size monthly if the Company's fleet provides an average of more than two rides per stand-up electric scooter or e-bike per day within that zone. City may request data from Company monthly to determine and demonstrate the utilization rate of vehicles in Company's fleet, pursuant to Section 7.

5. Parking

- a. The Company shall require users of stand-up electric scooters and e-bikes to park the vehicles upright and in the designated parking locations near the street corners.
- b. The Company shall require users to park stand-up electric scooters and e-bikes in a way that will not block the pedestrian clear zone area of the sidewalk; any fire hydrant, call box, or other emergency facility; bus bench; or utility pole or box.
- c. The Company shall require users to park stand-up electric scooters and e-bikes in a way that will not impede or interfere with the reasonable use of any commercial window display or access to or from any building.
- d. The Company shall require users to not park stand-up electric scooters and e-bikes in a way that will impede or interfere with the reasonable use of any bicycle rack or news rack.
- e. The Company shall allow users to park stand-up electric scooters and e-bikes on blocks without sidewalks only if the travel lane(s) and the 6-foot pedestrian clear zone are not impeded.
- f. The Company shall require users to not park stand-up electric scooters and e-bikes in street corners directly adjacent to or within the following areas, such that access is impeded:
 - i. Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks;
 - ii. Loading zones;
 - iii. Disabled parking zones;
 - iv. Street furniture that requires pedestrian access (e.g., benches, parking pay stations, bus shelters, transit information signs, etc.);
 - v. Curb ramps;
 - vi. Entryways and driveways.
- g. The Company shall require users to take a photo whenever they park their stand-up electric scooters or e-bikes at the end of a ride.
- h. Company may stage its stand-up electric scooters and e-bikes in permitted parking areas as described in this section. To the extent Company desires to stage stand-up electric scooters and e-bikes in areas other than the public right-of-way, Company must first obtain the right to do so from the appropriate City department, property owner, or public agency.

6. Operations

- a. The Company shall maintain 24-hour customer service for users to report safety concerns, complaints, or to ask questions. Company shall maintain a website, call center, or mobile app customer service interface that is available 24 hours a day, seven days a week. The aforementioned must be compliant with the Americans with Disabilities Act.
- b. If any safety or maintenance issue is reported for a specific stand-up electric scooter or e-bike, that vehicle shall be made unavailable to users and shall be removed as soon as possible.
- c. Any inoperable or unsafe vehicle shall be repaired before it is put back into service. Company shall respond to reports of incorrectly parked vehicles.
- d. Company shall provide notice to all users that:
 - i. stand-up electric scooters and e-bikes are to be ridden on streets, and where available, in bike lanes and bike paths;
 - ii. stand-up electric scooters and e-bikes are to stay to the right of street lanes and to offer the right of way to bicycles on bike lanes and bike paths;
 - iii. Helmets are encouraged for all users;
 - iv. Parking must be done in the designated areas in street corners; and
 - v. Riding responsibly is encouraged.

7. Data Sharing

City may require Company to provide anonymized fleet and ride activity data for all trips starting or ending within the jurisdiction of the City on any vehicle, provided that, to ensure the users' privacy:

- a. such data is provided via an application programming interface, subject to Company's license agreement for such interface, in compliance with a national data format specification such as a Mobility Data Specification;
- b. any such data provided shall be treated as trade secret and proprietary business information of the Company, shall not be shared to third parties without the Company's prior written consent, and shall not be treated as owned by the City;
- c. such data shall be considered personally identifiable information and shall under no circumstances be disclosed pursuant to public records requests received by the local authority without prior aggregation or obfuscation to protect individual privacy.

8. Indemnification

Company agrees to indemnify, defend and hold harmless City from and against all actions, damages or claims brought against City arising out of Company's negligence or willful misconduct, except that Company's indemnification obligation shall not extend to claims of the City's or the City's employees', agents' or affiliates' negligence or willful misconduct. The City expressly acknowledges that in no event shall Company be liable for any special, indirect, consequential, or punitive damages. Company shall be released from its indemnification obligations under this section if the loss or damage was caused by the City's negligent construction or maintenance of public infrastructure. City's right to indemnification shall be contingent on the City properly notifying Company promptly following receipt or notice of any claim. Company shall have sole control of any defense. City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Company.

9. Insurance

Company shall provide City with proof of insurance coverage for the operation of stand-up electric scooters and e-bikes in the jurisdiction of the City, including: (a) Commercial General Liability insurance coverage with a limit of no less than \$ 2,000,000.00 each occurrence and (b) Automobile Insurance Coverage with a limit of no less than \$1,000,000.00 each occurrence; (c) Umbrella or Excess Liability coverage with a limit of no less than \$2,000,000. 00 each occurrence; and (d) where Company employs persons within the City, Worker's Compensation coverage of no less than the statutory requirement.

10. Notices

All notices hereunder shall be in writing, emailed, or mailed by registered or certified mail postage prepaid, or by an overnight delivery service with proof of delivery, to the respective parties at the addresses as follows:

To the Company:

Bound Corporation
45116 Commerce St Ste 15
Indio, CA 92201
Attn: Juan Guevara-Diaz
Phone: (760) 989-9548
Email: juanguevara119@yahoo.com

To the City:

City of Coachella
53990 Enterprise Way
Coachella, CA 92236
Attn: Gabriel Martin, Economic Development
Director
Phone: (760) 398-3502
Email: gmartin@coachella.org

Notices will be deemed given at the time of actual delivery in person, immediately upon sending for email, three business days after deposit in the mail as set forth above, or one day after delivery to an overnight air courier service.

11. Assignment and Exclusivity

- a. Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred to any other party, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of the other party. Any assignment in violation of the foregoing will be null and void.
- b. No exclusivity is imputed or implied as to the market for shared mobility services generally, and this agreement and designation shall not apply to the operation of any shared mobility service with any vehicle other than Stand-up electric scooters.

12. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify the Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

13. Entire Agreement. This Agreement constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

14. Non-Disparagement. During the Term and after, the parties agree to not make any statements, written or verbal, or cause or encourage others to make any statements, written or verbal, that defame, disparage, or make any negative statement regarding the personal or business reputation, practices, or conduct of the other party. The parties acknowledge and agree that this prohibition extends to statements, written or verbal, made to anyone, including but not limited to, the news media, investors, potential investors, board members, industry analysts, competitors, auditors, strategic partners, vendors, and clients.

15. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation acts of God, flood, fire or explosion, war, invasion, riot or other civil unrest, actions, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, epidemic, any other event which is beyond the reasonable control of such party (each of the foregoing, a "**Force Majeure Event**"). During the Force Majeure Event, the non-affected party may similarly suspend its performance obligations until such time as the affected party resumes performance. The impacted party shall give notice within ten (10) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The impacted party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure

Event are minimized. The impacted party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. If the impacted party's failure or delay remains uncured for 30 consecutive days following written notice given by it under this section, either Party may thereafter terminate this Agreement upon 5 days' written notice.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Bound Mobility LLC

City of Coachella

By: _____

By: _____

Name: Juan Guevara-Diaz

Name: _____

Title: _____

Title: _____