



City of Austin

Austin Transportation Department, Mobility Services Division
1501 Toomey Rd., Austin, Texas 78704
SharedMobility@AustinTexas.gov

CITYWIDE LICENSE TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1 Agreement:** These Terms and Conditions are made in conjunction with the Director's Rules and any other agreement between the Licensee and the City of Austin. Together, these documents record our agreement in relation to the use of City of Austin right of way.
- 1.2 Priority:** If there is any inconsistency between these Terms and Conditions and/or any other agreements, the Terms and Conditions shall prevail in that order, over the Rules.

2. INSURANCE REQUIREMENTS

- 2.1** Business Automobile Liability Insurance with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage for all owned, non-owned and hired vehicles. The policy shall contain the following endorsements:
- A. Waiver of Subrogation in favor of the City of Austin, endorsement CA 0444, or equivalent coverage
 - B. 30 day Notice of Cancellation in favor of the City of Austin, endorsement CA 0244, or equivalent coverage
 - C. City of Austin listed as additional Insured, endorsement CA 2048, or equivalent coverage
- 2.2** Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverages A (bodily injury and property damage) & B (personal and advertising injury). The policy shall contain the follow provisions:
Products and Completed Operations with a minimum limit of \$500,000
Explosion, Collapse, and Underground (XCU) coverage
Independent Contractors coverage
- 2.3** The policy shall be endorsed and certificates shall reflect the following:
City of Austin listed as additional insured, Endorsement CG 2010 or equivalent.
- A. Waiver of Subrogation in favor of the City of Austin, Endorsement CG 2404 or equivalent.
 - B. 30 day Notice of Cancellation in favor of the City of Austin, Endorsement CG 0205 or equivalent.
- 2.4** Certificate Holder and ALL ENDORSEMENTS naming the CITY as Additional Insured, granting Waivers, and providing Notice of Cancellation, shall indicate:

City of Austin, ATTN: Mobility Services
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Austin, Texas 78704

2.5 The REQUESTOR'S insurance coverage is to be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best Ratings of B+ VII or better. The "other" insurance clause shall not apply to the CITY where the CITY is an additional insured shown on any policy. It is intended that policies required in the AGREEMENT, covering both the CITY and REQUESTOR, shall be considered primary coverage as applicable. If coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of the AGREEMENT and the certificate of insurance shall state that the coverage is claims made and the retroactive date shall be shown. The REQUESTOR shall provide the CITY annually with a certificate of insurance as evidence of such insurance. If insurance policies are not written for amounts specified above, the REQUESTOR shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage. The REQUESTOR shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the AGREEMENT or as required in the AGREEMENT. The REQUESTOR shall be responsible for premiums, deductibles, self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the certificate of insurance. The CITY reserves the right to review the insurance requirements set forth during the effective period of this AGREEMENT and to make reasonable adjustments to insurance coverage, limits and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, and the claims history of their industry or financial condition of the insurance company as well as the REQUESTOR. The insurance coverages required are required minimums and are not intended to limit the responsibility or liability of the REQUESTOR.

3. LICENSE PAYMENT

3.1 Initial Payment: Prior to issuance of license(s), the applicant shall pay the appropriate non-refundable fees, as established by ordinance.

3.2 Per Unit Fee: The licensee shall pay a fee per unit.

4. LICENSE TERM

4.1 Initial Term: From the date of issuance, the license shall be valid for no longer than six (6) months.

4.2 Renewal: Upon expiration of the Initial Term, the License will automatically renew for six (6) months with the same terms and conditions, upon payment of applicable fees, unless either the City or Licensee chooses not to renew. If the City chooses not to renew this Agreement, the City shall notify the Licensee of non-renewal at least two (2) weeks prior to the expiration of the then-current term. If the Licensee chooses not to renew this Agreement, the Licensee shall notify the City of non-renewal at least two (2) weeks prior to the expiration of the then-current term.

4.3 Termination for Cause by City: The City may terminate a license, based on the Licensee's inability to cure such defaults listed below. The City's right to terminate this Agreement for

Licensee's default is cumulative of all its rights and remedies which exist now or in the future. Default by Licensee includes, but is not limited to:

- A. Failure of the Licensee to comply with any requirement in City Code or Rules.
- B. Licensee becomes insolvent;

4.4. Termination by Licensee: The licensee may terminate a license at any given time, by providing the City a minimum of a two (2) week notice. Upon termination, the licensee shall inform their customers of the change and remove the units within ten (10) business days.

5. LICENSE REVOCATION

5.1 Initial Term: From the date of issuance, the license shall be valid for no longer than six (6) months.

6. LICENSEE DEBT

Licensee shall comply with the City Code and Director Rules, as amended from time to time. If the City becomes aware that the Licensee owes any money to the City or any related entity for Ad Valorem Taxes on real or personal property located within the boundaries of the City ("Debt"), it shall notify Licensee in writing. If Licensee does not pay the debt within thirty (30) days of such notification, the Director reserves the right to terminate the license.

7. EXCLUSION

This Program does not regulate or authorize operation at the Austin Bergstrom International Airport (ABIA). Such operation shall be with the approval of the ABIA Director and under such terms and conditions as the ABIA Director shall prescribe, including assessment of a fee.

8. NO RECOURSE

No recourse shall be had against any elected official, director, officer, attorney, agent, or employee of either of the Parties, whether in office on the effective date of this license or after such date, for any claim based upon this agreement.

9. NO JOINT VENTURE, PARTNERSHIP, AGENCY

Nothing in this license will be construed in any form or manner to establish a partnership, joint venture or agency, express or implied, nor any employer – employee or borrowed servant relationship by and among the parties.

10. NO PRIVATE RIGHTS

Nothing in this license will be construed in any form or manner to convey any private property right in, or to, the use of any street or public right-of-way. All permissions granted by this agreement shall be subject to the superior right of the public to the safe and orderly movement of people and traffic.

11. MISCELLANEOUS PROVISIONS

- 11.1** This agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. Any previous agreement, assertion, statement, understanding or other commitment before the date of this contract, whether written or oral, shall have no force or effect. No agreement, assertion, statement, understanding, or other commitment during the term of this Program, or after the term of this Program, shall have any legal force or effect unless properly executed in writing by the parties.
- 11.2** This Program is made, and shall be construed and interpreted under the laws of the State of Texas and venue for any lawsuit concerning this Program shall lie in the City of Austin, Travis County, Texas.
- 11.3** Regardless of the actual drafter of this agreement, this agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.
- 11.4** All official communications and notices required to be made under this Program shall be deemed made if sent, postage prepaid to the parties at the attention of the signatories hereto.
- 11.5** The Parties bind themselves and their successors in interest, assigns and legals to this Program.

12. INDEMNITY

[NAME OF ENTITY] SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY, ITS OFFICERS, APPOINTED OR ELECTED OFFICIALS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS (INDEMNIFIED PARTIES), AGAINST ALL COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, EXPENSES, AND COURT COSTS), LIABILITIES, DAMAGES, CLAIMS, SUITS, ACTIONS, AND CAUSES OF ACTIONS (CLAIMS), TO THE EXTENT ARISING, DIRECTLY OR INDIRECTLY, OUT OF (A) A BREACH OF THIS AGREEMENT OR VIOLATION OF LAW BY [NAME OF ENTITY], ITS OFFICERS, AGENTS, EMPLOYEES, [NAME OF ENTITY]'S SUB-ENTITIES, SUCCESSORS OR ASSIGNS, ([NAME OF ENTITY] PARTIES), (B) A FALSE REPRESENTATION OR WARRANTY MADE BY THE [NAME OF ENTITY] PARTIES IN THIS AGREEMENT OR IN [NAME OF ENTITY]'S PROPOSAL, (C) THE NEGLIGENCE, WILLFUL MISCONDUCT, OR BREACH OF A STANDARD OF STRICT LIABILITY BY THE [NAME OF ENTITY] PARTIES IN CONNECTION WITH THIS AGREEMENT. CLAIMS TO BE INDEMNIFIED UNDER THIS ARTICLE INCLUDE CLAIMS FOR BODILY INJURY OR DEATH, OCCUPATIONAL ILLNESS OR DISEASE, LOSS OF SERVICES WAGES OR INCOME, DAMAGE DESTRUCTION OR LOSS OF USE OF PROPERTY, AND WORKERS' COMPENSATION CLAIMS. [NAME OF ENTITY]'S OBLIGATIONS UNDER THIS ARTICLE ARE NOT EXCUSED IN THE EVENT A CLAIM IS CAUSED IN PART BY THE ALLEGED NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNIFIED PARTIES.

City shall give [NAME OF ENTITY] written notice of a Claim asserted against an Indemnified Party. [NAME OF ENTITY] shall assume on behalf of the Indemnified Parties and conduct with due diligence and in good faith the defense of all Claims against the Indemnified Parties. The Indemnified Parties shall have the right (but not the obligation) to participate in the defense of any claim or litigation with attorneys of their own selection without relieving [NAME OF ENTITY] of any obligations in this agreement. In no event may [NAME OF ENTITY] admit liability on the part of an Indemnified Party without the written consent of City Attorney.

Maintenance of the insurance required under this Agreement shall not limit [NAME OF ENTITY]'s obligations under this Article. [NAME OF ENTITY] shall require all subcontractors to indemnify City as provided in this Article.

BY SIGNING BELOW, I AGREE TO ALL OF THE TERMS OUTLINED ABOVE.

I DECLARE THAT THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND THAT I HAVE READ THE CITY OF AUSTIN CODE SECTION 14-9-1 THROUGH 14-9-23, AND I UNDERSTAND ALL CONDITIONS OF THIS APPLICATION AS SET FORTH HEREIN AND THE CITY CODE.

PRINT NAME AND TITLE

SIGNATURE OF APPLICANT
(MUST SIGN IN THE PRESENCE OF NOTARY)

THE PERSON KNOWN TO ME TO BE THE ABOVE SIGNED APPLICANT IS DULY SWORN BY ME AND STATES UNDER OATH THAT HE/SHE HAS READ THIS APPLICATION AND THAT ALL FACTS THEREIN SET FORTH ARE TRUE AND CORRECT.

SWORN TO ME ON THIS, THE _____ DAY OF _____, 20____

NOTARY PUBLIC SIGNATURE