

## **PERMIT AGREEMENT FOR CAR SHARING PARKING**

This Agreement is made and entered into between the City of Saint Paul, Minnesota, a home rule charter city ("City") and car2go N.A. LLC. A Delaware limited liability company ("Contractor").

WHEREAS, Contractor operates a free-floating, point-to-point car sharing business and requires formal parking arrangements to operate its business; and

WHEREAS, City controls parking within public rights of way located inside of its municipal boundaries ("City Right of Way"); and

WHEREAS, City operates and controls parking for Ramsey County streets and selected State of Minnesota Trunk Highways through other agreements; and

WHEREAS, Contractor desires to utilize City Right of Way to operate the stationing component of its car sharing business; and

WHEREAS, allowing a car sharing business to operate in the City Right of Way promotes the public's health, safety, and welfare by encouraging efficient and limited use of motor vehicles, thereby reducing traffic volumes, noise, and air pollution; and

WHEREAS, City desires to help facilitate car sharing by allowing use of the City Right of Way, subject to formal provisions outlining the terms and conditions under which such use will be allowed; and

WHEREAS, Contractor has a car sharing agreement with the City of Minneapolis; and

WHEREAS, Contractor has proposed a similar agreement with the City; and

WHEREAS, this Agreement is intended to outline the terms and conditions under which Contractor will be allowed to utilize the City Right of Way.

NOW, THEREFORE, for and in consideration of the following terms and conditions, the parties hereto agree as follows, to wit:

### **ARTICLE I. DURATION**

This Agreement shall be effective from January 1, 2016, through December 31, 2016, unless terminated earlier under the provisions of this Agreement.

### **ARTICLE II. SCOPE OF SERVICES**

Contractor shall operate a free-floating, point-to-point car sharing pilot program with the City of Saint Paul. Contractor agrees to utilize a minimum of 100 vehicles under this agreement. Contractor may, upon City approval, add up to 100 additional vehicles based on member demand and in consultation with City. The service area for the

duration of this Agreement will encompass the City Right of Way located within the boundaries indicated on Exhibit A, excluding curbside parking not controlled by the City ("Service Area"). Contractor may continue to operate city-wide until March 1, 2016 to allow for a transition to the service area boundaries indicated on Exhibit A.

With implementation of the Agreement, it is mutually understood that the Contractor's Service Area for its customers includes both the Service Area as outlined in Car2Go N.A. LLC's permit agreement with Minneapolis and the Saint Paul Service Area.

1. City's Obligations:

- A. City shall permit vehicles that will operate under Agreement.
- B. Permitted Vehicles shall be allowed to park at metered parking spaces without time limit or meter payment, except as outlined in this Agreement.
- C. Permitted vehicles shall be allowed to park in Residential Permit Parking Areas ("RPPAs").
- D. Permitted Vehicles shall comply with all other signed parking regulations including but not limited to commercial loading zones, overnight street sweeping, no parking zones, rush hour no parking, hooded parking meters, temporary no parking signs, and disabled parking zones.
- E. Permitted Vehicles shall comply with all other unsigned parking regulations including no parking zones as defined in City Ordinance and State Statutes, no parking as per a declared snow emergency, and any winter parking restrictions which are implemented.
- F. Permitted Vehicles shall comply with time limits within limited time zones which have a time limit of less than two (2) hours.
- G. City shall establish an annual rate per vehicle to be paid by Contractor ("Annual Rate").
- H. City may temporarily or permanently restrict any part of the Service Area at any time.

2. Contractor's Obligations (at Contractor's sole cost and expense):

- A. At any time during the term of this Agreement, as the City deems it necessary, Contractor may be required to provide off-street locations to deliver sufficient coverage in areas with limited on-street parking.
- B. At any time during the term of this Agreement, Contractor may be required to relocate vehicles from areas deemed over saturated.
- C. At any time during this Agreement, Contractor may be required to relocate vehicles between Minneapolis and Saint Paul to maintain a balance of vehicles between the two cities.
- D. Contractor and its members shall comply with all applicable laws and regulations.
- E. Contractor shall be financially responsible for all penalties and fines as a result of parking tickets, towing charges and/or other enforcement actions.
- F. All vehicles operated by Contractor in the Service Area will be part of this Agreement for data collection and reporting purposes.

- G. Contractor shall be responsible for relocating vehicles that remain idle for more than 48 hours. If a vehicle is not removed at the request of City, Contractor may be fined \$100 per day that the vehicle remains beyond 48 hours.
- H. Contractor must maintain a local office in the City of Saint Paul and/or City of Minneapolis during the terms of this Agreement, with the primary contact available during business hours, and Contractor shall inform the City of its location and contact information.
- I. Contractor shall provide City emergency contact information during non-business hours throughout the time this Agreement is in effect.
- J. Contractor shall meet with City Contract Manager or other designee in-person quarterly to discuss pending issues and concerns.
- K. Contractor shall provide City access to data upon request, as described below:
  - a. Vehicle movements that include vehicle license plate start address and GPS position, minutes rented, distance driven, end rental time;
  - b. Specific geographical distribution of membership;
  - c. Utilization for each vehicle in operation; and
  - d. Locations and durations of stationary vehicles.
- L. Contractor shall provide City staff a quarterly report containing summary data as described below:
  - a. Membership numbers and rates of growth;
  - b. Information detailing member break down by zip code;
  - c. Information detailing trip break down (ending and beginning trips) by zip code; and
  - d. Total miles driven by members from certain neighborhoods and/or zip codes as requested by City.

### **ARTICLE III. PAYMENT TERMS AND CONDITIONS**

Contractor shall receive no compensation from City under this Agreement.

Contractor shall pay City a fee of \$600 per vehicle for meter revenue recovery and permit parking fees.

Reimbursement to the City for any additional vehicles added above the initial 100 shall be paid on a prorated basis based on the above cost basis of \$600 per vehicle.

Contractor shall make payment for first 6 months of operation in 2016 by February 1, 2016 and shall make payment for second 6 months of operation in 2016 by August 1, 2016.

### **ARTICLE IV. REPRESENTATION AND COMPLIANCE**

This Agreement shall not be construed so as to transfer ownership or control of the City Right of Way to Contractor or to any other party.

Contractor agrees to comply with all applicable Federal, State and local laws. Contractor further acknowledges that its rights hereunder are subject to the police power of City to adopt and enforce general ordinances necessary to the safety and welfare of the public; and Contractor agrees to comply with all applicable general laws and ordinances enacted by City pursuant to such power.

## **ARTICLE V. GENERAL CONDITIONS**

1. **DAMAGE TO PROPERTY, MAINTENANCE, SIGNANGE.** If any City Property is damaged by Contractor in connection with the Permitted Activities, Contractor shall, upon request by City, promptly repair (or arrange for the repair of) such damage at the sole cost and expense of Contractor.
  
2. **INDEMNITY, RELEASE.** Contractor shall indemnify, defend, and hold harmless and hereby releases City against any and all claims, demands, actions, suits, judgments, losses, damages, expenses, penalties, fines, sanctions, court costs, and reasonable attorneys' fees (collectively referred to herein as "Claims") asserted against or incurred by City, its successors, designees and assigns, for injuries to persons and/or entities (including, without limitation, loss of life), for damage, destruction or theft of property, or for any other losses or liabilities that may be sustained directly or indirectly due to the condition of City property or City Right of Way, or the activities, operations or use of City Property or City Right of Way by Contractor, its successors, guests, customers, business invitees, agents, employees, and contractor of any kind, and all those claiming by or through them, and/or for breach of Contractor's covenant or obligation under this Agreement.

Contractor releases, waives, discharges and covenants not to sue City and its respective representatives, officials, attorneys, and employees (collectively the "Releasees") from all liability, claims, demands, losses, and damages on account of injury, including death or damage of property, cause or alleged to be caused in whole or in part by the Releasees arising from or related to the entry upon and use of City property or City Right of Way by the undersigned and its customers, agents, invitees and employees.

3. **INSURANCE.** Contractor shall at its own expense obtain and keep in force, during the term of this Agreement: (i) commercial general liability policy in an amount not less than Two Million and no/100 Dollars (\$2,000,000) per person per occurrence and Three Million and no/100 Dollars (\$3,000,000) in the aggregate for bodily injury, including death, and Two Million and no/100 Dollars (\$2,000,000) per person per occurrence and Three Million and no/100 Dollars (\$3,000,000) in the aggregate for property damage, such policy to include express coverage for the liabilities assumed by Contractor under this Agreement; (ii) commercial automobile liability insurance with a combined single limit of at least Two Million and no/100 Dollars (\$2,000,000) per accident; and (iii) worker's compensation insurance in conformity with applicable laws. Each vehicle must also be individually insured as required under Minnesota state law. The commercial general liability policies shall contain an endorsement naming City as an additional insured as to the actions and omissions committed by

Contractor, its employees, agents, and customers for which City could be held responsible. Prior to entering Service Area, Contractor shall furnish certificates of insurance evidencing compliance with this Section, with coverage effective as of the date the operations are commenced, and a provision requiring Contractor's insurer to endeavor to provide written notice to City of cancellation or change in the policy. Contractor shall also immediately provide notice of such change or cancellation directly to City.

4. PERMITS AND LICENSES; COMPLIANCE WITH LAWS. Contractor shall secure all permits, approvals and licenses that may be required and shall comply with all applicable laws including, but not limited to, and laws, standards, regulations, and permit requirements and all city codes and ordinances.
5. DEFAULT; ENFORCEMENT OF AGREEMENT. In the event of a breach or a threatened breach by Contractor of its obligations under this Agreement, and after City's delivery of five (5) days' prior written notice of said breach or threatened breach (or, without any notice in the event of an emergency where public health or safety is endangered), Contractor agrees that it shall, upon request, promptly cease operations in and remove all vehicles from the City Service Area. Contractor further acknowledges and agrees that no remedy conferred upon or reserved to City is intended to be exclusive of any other available remedy or remedies, and City shall be entitled to full and adequate other relief under both law and equity to enforce Contractor's obligations hereunder, including, but not limited to and action for money damages. If Contractor defaults under any of the provisions for this Agreement and City employs attorneys or incurs other expenses for the collection of amounts due hereunder or the enforcement of performance of any obligation or agreement on the part of Contractor, Contractor will on demand pay the reasonable fee of such attorneys and such other expended so incurred.
6. AGREEMENT EFFECTIVE WHEN SIGNED. This Agreement shall become effective on the execution and delivery by both parties (the "Effective Date").
7. TRANSFER/ASSIGNMENT. Contractor shall not transfer or assign any of its rights hereunder without the prior written consent of City. Any such transfer or assignment made without the prior written consent of City shall be null and void and of no force or effect and shall terminate this Agreement.
8. GOVERNING LAW, VENUE. This Agreement shall be construed and interpreted in accordance with the State of Minnesota, without reference to the choice of law rules thereof. All litigation arising out of this Agreement shall be venued in Ramsey County district court.
9. ENTIRE AGREEMENT. This Agreement is the full, complete, and entire agreement of the parties with respect to the subjects hereof, and any and all prior writings, representations, and negotiations with respect to those subjects are superseded by this Agreement.

10. NOTICES. All notices herein provide to be given, or that may be given by either party to the other, shall be deemed to have been fully given when served personally on City or Contractor or when made in writing and deposited in the United States Mail, certified and postage prepaid, to the address provided below.

If to Contractor:

Josh Johnson, Manager  
car2go N.A. LLC  
800 Washington Avenue North, Suite 104  
Minneapolis, MN 55401

If to City:

Ellen Biales, Administrative Programs Manager  
1500 City Hall Annex  
25 West 4<sup>th</sup> Street  
Saint Paul, MN 55102

The address to which the notice shall be mailed may be changed by written notice given by either party to the other.

11. TRADE NAMES. City acknowledges and agrees that “Mercedes-Benz,” “Mercedes,” “Maybach,” and “Smart,” the Three –Pointed Star within a Circle, “car2go,” the Maybach logo, the Smart logo and the car2go logo are the solely owned and validly registered trademarks and trade names of Daimler AG, the indirect parent company of car2go N.A., LLC.

City recognizes that it is not authorized to use any of Daimler AG’s trademarks and trade names; provided, however, City may use the car2go trademark and logo in City marketing/advertising materials, website and social media under this Agreement.

12. NOTICE OF BREACH. In the event City breaches any of its obligations under this Agreement, and fails to cure such breach within a reasonable time after written notice thereof from Contractor, Contractor may, upon notice, terminate this Agreement. Upon such termination, Contractor will promptly cease operations in and remove all vehicles from the City Service Area.

CITY OF SAINT PAUL, MINNESOTA

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Director of Public Works

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Office of Financial Service

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

CONTRACTOR

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

# EXHIBIT A – SERVICE AREA

