

Memorandum of Understanding Agreement

Town of Middlebury, Vermont and Bird Rides, Inc.

The Town of Middlebury, herein-after referred to as the 'Town', will permit Bird Rides, Inc. to provide services under the following terms and limitations. This agreement shall remain in effect until November 30, 2022 unless sooner terminated as set forth below.

AGREEMENT

- 1) Scope: This Agreement and its terms apply to any proposed deployment of Stand-up electric scooter sharing systems within the Town's jurisdictional boundaries. No person shall deploy a Stand-up electric scooter sharing system in the Town in violation of this Agreement.
- 2) Stand-up electric scooters shall be governed by and used in accordance with all applicable laws and ordinances, including but not limited to Title 23 Vermont Statutes Annotated Chapter 13, Subchapter 12, and by the Town Ordinance for the Safe Operation of Bicycles and Other Rideable Devices, and are to be ridden on streets, and where available, in bike lanes and bike paths or other designated areas. Stand-up electric scooters are to stay to the right of street lanes and to offer the right of way to bicycles and pedestrians in bike lanes, bike paths, and other areas. No use of Stand-up electric scooters on sidewalks shall be permitted. Users of Stand-up electric scooters shall be 18 or older. Users of Stand-up electric scooters who violate these provisions are subject to civil fines as provided in Town Ordinance and State Statutes.
- 3) Bird Rides, Inc. shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Stand-up electric scooter for members of the public to make relocation requests or to report other issues with devices. Bird Rides, Inc., shall promptly remove any Stand-up electric scooters that are inoperable, left on private property, or otherwise left in an unsafe or inappropriate location.
- 4) Hours of operation: Stand-up electric scooters will be made available to rent from 5 a.m. to 11 p.m. May 1 through October 31. The Town will notify Bird Rides, Inc, of the geographic limits of operation in the Town at the time permit is granted for operation.
- 5) Bird Rides, Inc. shall provide a minimum of 50 vehicles at launch.
- 6) Safety Education: Bird Rides will provide materials, videos, signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.

7) Data sharing: Bird Rides, Inc. will provide the Town data as necessary to assist with monitoring program usage.

8) Indemnification: Bird Rides, Inc. agrees to indemnify, defend and hold harmless the Town (and the Town's employees, agents and affiliates) from and against all actions, damages or claims brought against the Town arising out of Bird Rides, Inc.'s negligence or willful misconduct, except that Bird Rides, Inc.'s indemnification obligation shall not extend to claims of the Town (or the Town's employees', agents' or affiliates') negligence or willful misconduct. The Town expressly acknowledges that in no event shall Bird Rides, Inc. be liable for any special, indirect, consequential or punitive damages. Bird Rides, Inc.'s indemnification obligations shall survive for a period of three (3) years after expiration or termination of this Agreement. Bird Rides, Inc. shall be released from its indemnification obligations under this section if to the extent that the loss or damage was caused solely by the Town's negligent construction or maintenance of public infrastructure. The Town's right to indemnification shall be contingent on Town notifying Bird Rides, Inc. promptly following receipt or notice of any claim; Bird Rides, Inc. and the Town shall coordinate and cooperate in ~~shall have sole control of~~ any defense; and the Town shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird Rides, Inc.

9) Insurance: Bird Rides, Inc. shall provide the Town with proof of insurance coverage exclusively for the operation of Stand-up electric scooters including: (a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate; and (c) where Bird Rides, Inc. employs persons within the Town, Workers' Compensation coverage of no less than the statutory requirement.

10) Notices: All notices and communications to the Town from Bird Rides, Inc. shall be made in writing (includes electronic communications) and sent to the address below.

11) Either party may terminate this agreement at any time and without cause upon ~~(30)~~ days' prior written notice. In addition, the Town may terminate this agreement upon fewer than 30 days' notice if it determines that the operation of Stand-up electric scooters in the Town has created an unreasonable safety hazard. In the event of termination, Bird Rides, Inc. shall discontinue operation of its stand-up electric scooter program and shall promptly remove all scooters and related equipment from the Town.

12) In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.

13) The parties acknowledge that Bird Rides, Inc. may utilize independent business logistics providers to facilitate local operations. Bird's use of these logistics providers does not constitute a transfer or assignment of this Agreement, and Bird Rides, Inc. remains responsible for all obligations and requirements under this Agreement.

14) This agreement shall be governed by and construed in accordance with the laws of the State of Vermont.

Town of Middlebury, Vermont

77 Main Street

Middlebury, VT 05753

_____ **Bird Rides, Inc.**

Insert contact address

Signed By:

Signature: _____

Print Name: _____

Title: _____

Signature: _____

Print Name: _____

Title: _____