

OPERATING AGREEMENT

This Operating Agreement (the “Agreement”) is entered into by and between Bird Rides, Inc., a California corporation, located at 406 Broadway #369 Santa Monica, CA 90401 (the “Company”), and _____ (the “City”) _____ (the “City”) as of _____.

1. Statement and Purpose

The purpose of this Agreement is to establish rules and regulations governing the operation of a Stand-up electric scooter sharing system within the City while this Agreement is in effect, and to ensure that the program is consistent with the safety and well-being of bicyclists, pedestrians, and other users of the public rights-of-way. Bird is requesting the Selectboard issue a license to allow Bird to begin operations in Middlebury using town property for the purpose of storing/staging scooters.

2. Scope

This Agreement and its terms apply to any proposed deployment of Stand-up electric scooter sharing systems within the boundaries outlined below. This Agreement shall remain in effect for a period of twelve months and shall automatically renew for successive twelve month periods unless either party provides written notice to the other of its intention not to renew at least thirty (30) days prior to the end of the then-current term.

The City reserves the right to terminate this Agreement for convenience on ninety (90) days written notice.

3. Operating Regulations

- Company may utilize independent business logistics providers to facilitate local operations. Company’s use of these logistic providers does not constitute a transfer or assignment of the Agreement, and Company remains responsible for all obligations and requirements under this Agreement.
- Logistic Provider will respond to City issues related to Bird scooters. The local contact for Bird must respond within two (2) hours of contact from the City during normal business hours defined as 8:00AM to 6:00PM Monday through Friday or within ten (10) hours outside of business hours on an issue and provide notification upon resolution of the issue.

- Stand-up electric scooters shall mean a device weighing less than 150 pounds, that has: (i) has handlebars and an electric motor; (ii) is solely powered by the electric motor and/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.
- Except as otherwise provided herein, City shall regulate the operation of Stand-up electric scooters in a manner no more restrictive than City's regulation of bicycles.
- Stand-up electric scooters are to be ridden on streets, and where available, in bike lanes and bike paths. Stand-up electric scooters 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 shall be 18 or older.
- Company 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.
- Hours of operation when the Company's Stand-up electric scooters will be made available to rent for residents are 5 a.m. to 12:00 am (local time).
- Company shall provide a minimum of 50-75 vehicles at launch.
- When at cap, Company is permitted to increase its fleet size on a monthly basis in the event that the Company's fleet provides on average of more than two rides per Stand-up electric scooter per day within that Zone. City may request data from Company on a monthly basis to determine and demonstrate the utilization rate of vehicles in Company's fleet, pursuant to Section 7.

4. Parking

- Users of Stand-up electric scooters shall park devices upright in the furniture zone of the sidewalk, beside a bicycle rack or in another area specifically designated for bicycle parking, or on the street next to an unmarked curb.
- Users shall not park Stand-up electric scooters in such a manner as to 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.
- Users shall not park Stand-up electric scooters in such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building.
- Users shall not park Stand-up electric scooters in such a manner as to impede or interfere with the reasonable use of any bicycle rack or news rack.

- Company may stage its Stand-up electric scooters in permitted parking areas as described in this section. To the extent Company desires to stage Stand-up electric scooters 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

- Company shall maintain 24-hour customer service for customers to report safety concerns, complaints, or to ask questions. Company shall maintain a multilingual website, call center, and/or mobile app customer interface that is available twenty-four hours a day, seven days a week. The aforementioned shall be compliant with the Americans with Disabilities Act.
- In the event a safety or maintenance issue is reported for a specific device, that Stand-up electric scooter shall be made unavailable to users and shall be removed within the timeframes provided herein. Any inoperable or unsafe device shall be repaired before it is put back into service.
 - Company shall provide notice to all users that:
 - Stand-up electric scooters are to be ridden on streets, and where available, in bike lanes and bike paths;
 - Stand-up electric scooters are to stay to the right of street lanes and to offer the right of way to bicycles on bike lanes and bike paths;
 - Helmets are encouraged for all users;
 - Company shall provide education to Stand-up electric scooter riders on the City's existing rules and regulations, safe and courteous riding, and proper parking.

7. Data Sharing

Company will provide data to the City to assist with monitoring program usage.

8. Revenue Sharing

While this program is in effect, Bird Rides, Inc. shall pay the City a revenue-share of \$0.15 per ride to help fund protected bike lanes or other transportation projects within the operating areas. Bird Rides, Inc. shall pay the revenue-share to the City on a quarterly basis, in arrears within 30 days from the end of the preceding month.

9. Indemnification

Bird Rides, Inc. agrees to indemnify, defend and hold harmless the City (and the City's employees, agents and affiliates) from and against all actions, damages or claims brought against the City 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 City's (or the City's employees', agents' or affiliates') negligence or willful misconduct. The City 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 one (1) year after expiration of this Agreement. Bird Rides, Inc. 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. The City's right to indemnification shall be contingent on the City notifying Bird Rides, Inc. promptly following receipt or notice of any claim; Bird Ride, Inc. shall have sole control of any defense; The City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird Ride, Inc.

10. Insurance

Bird Rides, Inc. shall provide the City 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 City / County, Workers' Compensation coverage of no less than the statutory requirement.

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

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 _____.

Bird Rides, Inc.

Signed By:

Signature: _____

Signature: _____

Print Name: _____

Print Name:

Title: _____

Title: