

DOCKLESS SCOOTER REVOCABLE LIMITED LICENSE AND AGREEMENT

THIS REVOCABLE LICENSE ("License") is hereby issued as of the _____ day of _____, 2018, by THE CITY OF NORMAN, OKLAHOMA, A Municipal Corporation, ("City"), to Bird Rides, Inc. ("Licensee"). The term "Licensee" herein shall refer collectively to Licensee, and any employee, independent contractor, agent or representative of Licensee.

WITNESSETH, that the parties hereto, for the consideration hereinafter expressed, covenant and agree as follows:

1. Deployment and Fleet Size. City hereby permits Licensee, subject to the rights or easements hereinafter excepted and reserved and upon the terms and conditions hereinafter set forth, to use those areas found within the public rights of way situated in Norman, Cleveland County, State of Oklahoma ("Premises"), for a term beginning on _____, 2018 and ending when this License shall be terminated as hereafter provided. This License is issued solely for the deployment or placement of Licensee's personal property, which will be offered to the public for rental as a Dockless Standup Electric Scooter ("Scooter"). Pursuant to this License, Licensee may deploy as many as, but no more than, one hundred fifty (150) Scooters on the Premises. Nothing in this License shall be construed as requiring Licensee's deployment of Scooters, or any minimum number thereof.

2. Fleet and Ridership Data. Licensee shall, within three (3) days of any request by the City, provide data for any Scooter deployed as part of its fleet demonstrating: (1) the average number of rides per Scooter for each day of the thirty (30) days preceding the request; (2) the average number of rides per Scooter for certain times of day for each day of the thirty (30) days preceding the request; and (3) the average number of rides per Scooter taking place within certain geographic portions within municipal city limits for each day of the thirty (30) days preceding the request. Licensee shall automatically provide all such data upon every six-month anniversary of the Effective Date of this License (i.e., 6-month, 1 year, 1 ½ years, 2 years, etc.) unless the City previously requested all such data within the thirty (30) days preceding the anniversary.

3. Increase(s) to Licensee's Fleet. On every monthly anniversary of the Effective Date of this Agreement, Licensee may submit a request to increase its fleet to the City of Norman City Clerk, for submittal to and determination by the City Manager or her/his designee ("City Manager"). Licensee shall provide any available data the City Manager may request from Licensee in order to evaluate each such request, including but not limited to daily ridership data for each Scooter and data regarding ridership within certain portions of the municipal city limits. The City Manager may allow the increase as requested by Licensee, or may allow for a different amount of additional Scooters, and may place conditions upon the additional Scooters that, in the discretion of the City Manager, better serve the interests of Norman citizens with respect to safety and access to the public rights-of-way. Any increase allowed by the City Manager, and agreed to by Licensee, shall be an addendum to this License, signed by Licensee and the City Manager. Any increase not allowed by the City Manager in a manner acceptable to Licensee may be appealed to City Council by requesting an amendment to this License. Where Licensee declines or refuses to sign an addendum increasing its Fleet, any approved increase of fleet shall not be implemented by Licensee. Where Licensee increases its Fleet without City approval pursuant to this License, the City may terminate this Agreement upon five (5) days' written notice.

4. Decrease(s) to Licensee's Fleet. On every monthly anniversary of the Effective Date of this License, the City Manager may give notice to Licensee to decrease its fleet. Within five (5) days of receiving such notice, Licensee may provide the City Manager with data demonstrating ridership for each Scooter in its Fleet. Where Licensee cannot show that an average of at least three (3) rides per Scooter per day for each of the fifteen (15) days preceding the date of the notice, the City Manager may, in their discretion, decrease the size of Licensee's Fleet in his/her discretion and as determined to better serve the interests of Norman citizens with respect to safety and access to the public rights-of-way, and as documented as an addendum signed by the Licensee and the City Manager. Any decrease documented as an addendum to this License may be appealed to City Council by requesting amendment to this License. Where Licensee declines or refuses to sign an addendum decreasing its Fleet, or otherwise deploys a fleet in excess of the size permitted by this Agreement, the City (through the City Manager) may terminate this License upon five (5) days written notice.

5. City Rights, No Responsibility for Licensee Property. City hereby excepts and reserves the right, to be exercised by City and by any others who have obtained or may obtain permission or authority from City so to do, (a) to operate, maintain, renew and relocate any and all existing utilities, pipe, power, and communication lines and appurtenances and other facilities of like character upon, over, or under the surface of the Premises; and (b) from time to time to construct, operate, maintain, renew and relocate such additional facilities of the same character. City shall incur no liability to Licensee for any damages to the Premises or any personal property of Licensee placed upon the Premises that may occur during the operation, maintenance, renewal, relocation of any or all existing utilities, pipes, power or communication lines, appurtenances, or facilities, and in all instances it shall remain the responsibility of Licensee to ensure that the personal property placed upon the Premises be maintained in a manner compliant with the applicable Code of Ordinances for the City of Norman, Oklahoma and federal law.

6. License Fee. Licensee shall pay to City for the use of the Premises as follows: **Three Hundred and NO/100 Dollars (\$300.00)** per year payable to the City of Norman Public Works Department in advance without demand. This fee is due and owing on or before the date this License is issued and thereafter shall be payable on or before the first day of each annual anniversary of such date thereafter. If the fee remains unpaid for thirty days after payment is due, the penalty shall be equal to 10% of the annual amount due for each month that the fee remains unpaid. **Further, Licensee shall remit to the City of Norman Public Works Department one dollar (\$1.00) per deployed vehicle per day to the City, payable quarterly, to be used for construction for shared mobility infrastructure, promotion of safe riding, or maintenance of shared infrastructure.**

7. Limited Use of the Premises. Licensee shall use the Premises exclusively for the placement of Scooters. Licensee shall only place Scooters on the Premises that are the sole and exclusive personal property of Licensee. Licensee may not make any improvements to the Premises relating to the placement of the Scooters(s). The Licensee may not use the Premises for any other purpose under the terms of this License and Agreement. Licensee must not deploy Scooters on the Premises any earlier than 6 a.m., and must reasonable efforts to collect all Scooters within the City no later than 10 p.m.

8. Inspections by City, Responsibilities of Licensee. City may enter upon the Premises to inspect the placement of Scooters, whether Scooters have been placed by Licensee, its agents or its customers. Licensee shall provide contact information, including a phone number, in a visible and readable font on each Scooter, and shall respond to requests for rebalancing, reports of incorrectly

parked Scooters, Scooters violating the Parking Guidelines set forth in Paragraph 10, or reports of unsafe/inoperable Scooters (from the City or any other entity or individual) by relocating, re-parking, or removing the Scooters, as appropriate, within 2 hours of receiving notice. Should Licensee not comply fully with the above-stated obligations of this section, or should any Scooter remain parked in one location for more than 24 hours without being moved, notwithstanding any termination rights of the City, City may, at its option, impose any fines applicable per the City Code and/or may remove, by City or by contract personnel, such Scooters for storage or impoundment at the expense of the Licensee. City shall not be responsible for the condition of any Scooter so stored or impounded. For any Scooter so impounded by the city, Licensee is responsible for the payment of contract impoundment fees (where applicable), citation fines in compliance with City Code Sec. 14-311 and 20-807, as those citation fines relate to "Parking, stopping and standing prohibited in other areas" plus a \$5/day storage fee for each impounded Scooter that is stored by the City.

9. Licensee to Abide by Laws, Regulations, Ordinances. In using the Premises, and in placing, maintaining, and operating the Scooters thereon, Licensee shall comply with any and all requirements imposed by federal or state statutes, or by ordinances, orders, or regulations of any governmental body having jurisdiction thereover.

10. Parking Guidelines. Licensee acknowledges and understands the following guidelines for parking Scooters:

- a. Scooters shall be parked upright on hard surfaces in the furnishings zone or frontage zone of the sidewalk, beside a bicycle rack or in another area specifically designated for bicycle parking;
- b. Scooters shall not be parked in such a manner as to block the through pedestrian zone of the sidewalk; any fire hydrant, call box, or other emergency facility; bus bench; or utility pole or box;
- c. Scooters shall not be parked 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;
- d. Scooters shall not be parked in such a manner as to impede or interfere with the reasonable use of any bicycle rack or news rack;
- e. Scooters may be parked on blocks without sidewalks only if the travel lane(s) and a 6-foot pedestrian clear zone are not impeded.
- f. Scooters shall not be parked in the furnishings zone 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 zone;
 - iv. Street furniture that requires pedestrian access (for example – benches, parking pay stations, bus shelters, transit information signs, etc.);
 - v. Curb ramps;
 - vi. Entryways; and
 - vii. Driveways.

11. Indemnification. Licensee shall indemnify, defend and hold harmless City against all actions or causes of action, claims, liability, loss, cost, damage or expense, or whatever kind and

nature, including but not limited to those arising under the Federal Employer's Liability Act, or under any Workers' Compensation Act, and any amendment to said Acts now or hereafter in effect, including reasonable attorney fees and other expenses of litigation, and including any suit instituted to enforce the obligations of this provision, which City may sustain or incur, or for which it may become liable, by reason of use of, damage to or destruction of property, including the loss of use thereof and lost profits, or by reason of injuries, including death, to any person or persons including, but not limited to, the person or property of the parties hereto and their employees (hereafter "Loss and Damage"):

(1) Arising out of, or directly or indirectly due to, any failure by Licensee to satisfy, promptly and faithfully, its obligations under this License;

(2) Arising out of, or directly or indirectly due to, any accident or other occurrence whatsoever causing injury, including death, to any person or persons or damage to or destruction of any property, including the loss of use thereof and lost profits, resulting from the use, occupancy or condition of the Premises and Scooters placed by Licensee, its customers, invitees and licensees; and

(3) Arising out of any mechanic's lien or other lien, tax, assessment or charge of any and every nature that may at any time be established against the Premises or the Scooters, or any part thereof, as a consequence, direct or indirect, of the existence of Licensee's interest under this License.

No settlement by Licensee for Loss and Damage shall affect City's right to indemnity, contribution or defense under this agreement.

Upon written notice from City, Licensee agrees to assume the defense of any lawsuit, administrative action or other proceeding brought against City by any public body, individual, partnership, corporation, or other legal entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or to save and hold harmless the City. Licensee shall pay the entire costs incident to such defense, including, but not limited to, reasonable attorneys' fees, reasonable investigators' fees, reasonable litigation expenses, settlement payments, and amounts paid in satisfaction of judgments. Any and all lawsuits or administrative actions brought or threatened on any theory of relief available at law, in equity or under the rules of any administrative agency shall be covered by this Section, including, but not limited to, the theories of intentional misconduct, negligence, breach of statute or ordinance, or upon any theory created by statute or ordinance, state or federal.

Notwithstanding the other language in Paragraph 11, Licensee shall not be required to indemnify, defend or hold harmless the City from and against Loss or Damage resulting solely from the negligence or willful misconduct of the City or any agent or representative thereof.

12. Insurance. Licensee shall provide City with proof of insurance coverage applicable to its activities in the City, including: (a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence; (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 \$5,000,000.00 each occurrence; and (d) where Licensee employs persons within the City, Workers' Compensation coverage of no less than \$1,000,000.00 each occurrence.

13. Assignment or Transfer. Neither Licensee, nor the heirs, legal representatives, successors or assigns of Licensee, nor any subsequent assignee, shall assign or transfer this License Agreement or any interest herein, without the written consent and approval in each instance of City.

14. Objection by Fee Owner. Where fee title to the Premises is owned by a party other than the City, Licensee will remove scooters within two hours' notice (whether oral or written) of any objection by the fee owner or its designee. Licensee shall be responsible to ensure that no Scooter(s) are placed or stationed by Licensee's agents or employees on that fee owners' premises at a future time unless said objection is revoked in writing by the fee owner or its designee. Where Licensee's customers place Scooters on any objecting fee property owners' property at a future date, Licensee shall remove scooters within two hours' of receiving notice of such placement. Any failure by Licensee to act in conformance with this Agreement may result in the imposition of fines per the City Code and/or impoundment of any offending Scooter by the City, and Licensee will pay such fines and fees as set forth in Paragraph 8 herein.

15. Termination of License. If any fee shall be due and unpaid, or if default shall be made in any of the covenants or agreements of Licensee herein contained, or in the case of any assignment or transfer of this License by operation of law, City may, at its option, terminate this License by serving ten (10) calendar days' notice in writing upon Licensee; but any waiver by City of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults. Further, this License may be terminated for any reason at any time by either party by serving ten (10) calendar days' written notice of termination upon the other party, stating therein the date that such termination shall take place, and upon the expiration of the time specified in such notice, this License and all rights of Licensee hereunder shall absolutely cease and terminate.

Upon the termination of this License in any manner herein provided, Licensee shall forthwith surrender to City the possession of the Premises and shall, at its own cost, remove the Scooters. In the case Licensee shall fail within the prescribed period of time after the date of such termination to remove all Scooters from the Premises, then City may store or impound all Scooters subject to this License. All such impounded devices will be subject to and may only be redeemed upon full payment of all fees by Licensee, as set forth in Paragraph 8 herein.

If Licensee fails to surrender to City the Premises, upon any termination of this License, all the liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered; and no termination hereof shall release Licensee from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or the date, if later, when the Scooters are removed and the Premises restored or City elects to take and hold the Scooters as its sole property as set forth herein.

Any waiver by City of any breach of Licensee's obligations shall not constitute a waiver of the right to terminate this Lease for any subsequent or continued breach which may occur, or to enforce any other provision of this License. Any termination of the License herein will not serve to terminate any other obligations by Licensee under this Agreement.

16. Notices and Local Licensee Contact. Licensee shall at all times provide identification of at least one local contact personnel for Licensee that is/are available to receive communications by

writing and phone relating to Licensee's responsibilities under this License. Any written notice required to be given by City to Licensee hereunder shall be deemed to be properly served upon deposit in the United States mail, postage prepaid, addressed to Licensee at 016 W Reno Ave, Oklahoma City, Norman, OK 73027. Any written notice required to be given hereunder by Licensee to City shall be deemed to be properly served upon deposit in the United States mail, postage prepaid addressed to: The Office of the City Clerk, P.O. Box 370, Norman, Oklahoma 73070. **Please send a copy of written notice to: 406 Broadway Ave #369 Attn: Legal Santa Monica CA 90401**

17. Future City Regulations or Ordinances. Licensee acknowledges that, in addition to being subject to current federal, state or municipal law, regulation, and ordinances, it will also be subject to, and bound to comply with, any future amendments or additions to these bodies of law, including any future City of Norman resolutions or ordinances, that are or will be applicable generally or specifically to the subject devices or activities addressed in this License Agreement. Licensee acknowledges that, by entering into this License Agreement with Licensee, City does not waive its right to enact and/or enforce any current or future ordinances or resolutions. This License shall not automatically terminate upon the passage of any future ordinance or regulation, and any conflicts shall be resolved in favor of applying subsequent resolution(s) or ordinance(s).

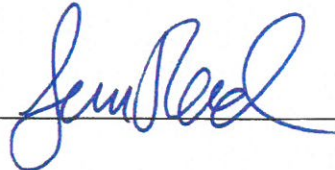
18. Binding Effect. All the covenants and agreements of Licensee herein contained shall be binding upon the heirs, legal representatives, successors and assigns of Licensee and shall inure to the benefit of the successors and assigns of City.

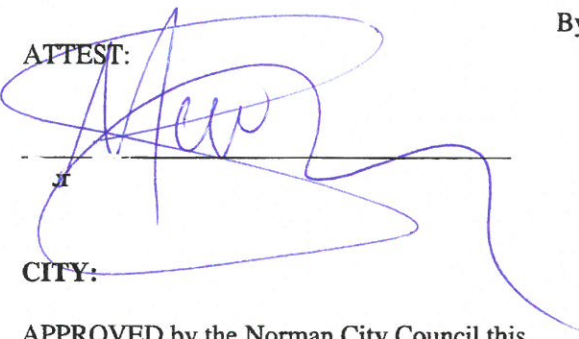
19. Counterparts. This document may be executed in counterparts.

IN WITNESS WHEREOF, this License has been duly executed in duplicate by the parties hereto as of the date and year first above written.

LICENSEE:

ATTEST:

By: 


CITY:

APPROVED by the Norman City Council this _____ day of _____, 2018.

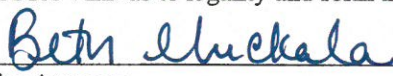
By: _____

MAYOR

ATTEST:

City Clerk

APPROVED as to legality and form this 18 day of December, 2018.


City Attorney