CITY OF CULVER CITY

DOCKLESS SHARED MICROMOBILITY PILOT PROGRAM

OPERATING AGREEMENT

WITH: _____

FOR: DOCKLESS SHARED MICROMOBILITY SYSTEM

THIS OPERATING AGREEMENT FOR DOCKLESS SHARED MICROMOBILITY SYSTEM ("Operating Agreement") is made and entered into by and between THE CITY OF CULVER CITY, a municipal corporation, hereinafter referred to as "City," and _____, hereinafter referred to as "Operator."

1.   PURPOSE. The purpose of this Operating Agreement is to establish interim rules and requirements governing the pilot program for the operation of a dockless shared micromobility pilot program ("Pilot Program") within the jurisdictional boundaries of the City of Culver City ("Culver City") and to ensure that such micromobility sharing systems are consistent with the safety and well-being of pedestrians, bicyclists, and other users of the public right-of-way.

2.   SCOPE AND TERM. This Operating Agreement applies to any proposed deployment of dockless shared micromobilty within Culver City. The term of this Operating Agreement shall commence on November 20, 2021 and shall expire on June 30, 2022 ("Term"), unless earlier terminated pursuant to Section 18. This Agreement may be extended for up to three additional one-year periods, as authorized by the City Manager and agreed to by the Operator. For each extended one-year period, an amendment to this Agreement shall be required.

3.   PROCEDURES.
     a. Any person/company seeking to operate a dockless shared micromobility program within Culver City shall execute this Operating Agreement and apply for a related Street Use Permit issued by the City's Public Works Department. Operator acknowledges and agrees that this is a non-exclusive agreement and that City may enter into operating agreements with other operators of dockless shared micromobility at its sole discretion.

     b. This Operating Agreement, grants the authority to the Operator to deploy and operate its dockless shared micromobility system within Culver City under the terms and conditions set forth herein and for the duration of the Term of this Operating Agreement as set forth in Section 2; provided,

Operator shall not deploy any micromobility device or vehicle (Vehicle) unless and until all conditions precedent, as set forth in this Operating Agreement have been satisfied.

c. Upon execution of this Operating Agreement, the Operator shall submit all relevant documentation (Attachment A) to City to demonstrate compliance on all requirements and shall not deploy any Vehicle in Culver City prior to City's issuance of a Notice to Proceed, which shall not occur until after the City's Director of Emergency Services has determined, at his sole discretion, it is safe to do so under the current local emergency public orders or once the pubic orders have been lifted.

d. City will establish and adopt regulations governing the operation of dockless shared micromobility programs. Operator shall comply with these regulations as they may be amended from time to time. City reserves the right to amend, modify or change the terms and conditions of this Operating Agreement at its discretion. The City Manager is authorized to approve amendment(s) to this agreement including, but not limited to, agreement procedures and standards, which may include regulation relating to lawful conduct, public safety, data sharing, data privacy, and/or the timely removal of hazards.

4. FEES AND PAYMENT PROCEDURE

Item #	Fee	Rate	Unit	Note
1	Annual Permit Fee	$ 20,000	Per operator	
2	Annual Operations Fee	$100	Per vehicle	Based on the number of permitted vehicles.
3	Public Right-of-Way (PROW) Fee	$0.20	Per trip	All trips that start and/or end Culver City.
4	Impound Charge	$100/vehicle + $25/day	Per occurrence	

a. The table above summarizes the general fees for Operator. Additional fees and assessments may apply.

b. The City reserves the right to amend these fees to ensure cost recovery and facilitate program development.

5. OPERATION AND MAINTENANCE.
   a. Vehicle

1) A Shared Micromobility Device or Vehicle (Vehicle) is defined as:
   a. A transportation device by which a person can be propelled, moved, or drawn that is displayed, offered, or placed for rent in any Public Area or Public Right-of-Way

2) Operator shall submit manufacturer's Vehicle specifications to City.

3) Identification. Each Vehicle shall have a unique identifier that is readily visible to the User or any member of the public. A User is defined as any person using the Operator's Vehicle, with or without permission or authorization from the Operator.

4) Each Vehicle shall meet the following minimum criteria:
   - Designed to withstand the demands of outdoor and shared use
   - Highly durable; theft and vandal resistant
   - Safe, comfortable and easy to use by a wide range of users and in the case of bicycles, include an adjustable seat
   - Durable and operational brakes
   - Warning bell
   - Security hardware
   - Front light that emits white light and a rear red light
   - Side reflectors
   - Safety information clearly posted on each Vehicle legible from a distance of three (3) feet
   - Display customer service contact information legible from a distance of three (3) feet
   - Display a clearly visible unique Vehicle identification number from a distance of ten (10) feet
   - The Vehicle identification number shall be correlated with operator records sufficient to identify the unique Vehicle and records associated with the Vehicle
   - E-scooters shall have a maximum speed of 15 mph or less and e-bikes shall have a maximum speed of 20 mph or less
   - Non-combustion engine
   - Equipped with GPS
   - UL certified batteries

   It is preferred that Operator provides:
   - Use of proprietary parts to deter equipment theft and vandalism
   - Some three-wheel Vehicles for stability-impaired individuals

5) Vehicle Technology

- Vehicles shall offer state-of-the-art shared micromobility technology. Operator shall provide the necessary technology to track Vehicles, determine Vehicle utilization, enhance customer service, and to educate users about safe riding and the rules of the road.

- At a minimum, each Vehicle shall provide the necessary technology to provide real-time location tracking and recorded trip origin and destination. Vehicles shall be capable of location-based speed regulation, deactivation, and parking restriction.

- In areas identified by City, Vehicles shall be capable of being automatically controlled to a maximum of 1 mph or to safely cease operation, and Operator shall limit the "end ride" or "begin ride" features in order to regulate parking behavior.

- Vehicles shall have GPS equipment that provides the locational accuracy needed to virtually designate a "hub", "station", or "drop zone" system for Vehicle parking, to track trip path, and to restrict speed in designated areas.

- At Operator's service launch in Culver City or in the near future, Vehicles shall be able to implement enforcement mechanisms that can recognize and prohibit sidewalk riding.

- RFID and/or NFC technology that enables users to rent Vehicles from mobile devices, access cards, or other similar device is preferred.

- Multi-modal Interoperability. The City aims to have a connected shared mobility system that increases the accessibility of other modes of transportation and builds upon a cohesive regional transportation network. Operator should work to provide a system that can interact with other modes of transportation, such as public transit, car sharing services, ride hailing services, and other transportation modes. Operator shall work with the City to achieve multi-modal interoperability and shall work toward integrating Transit Access Pass (TAP) payment feature into Operator's mobile application; operator shall also work with the City to establish integration with Culver City's Next CCBus applications.

- Interaction with Multi-modal Transportation Systems. Operator is required to work in a cooperative manner with the existing and

emerging multi-modal transportation systems and/or Mobility-as-a-Service (MaaS) systems that benefit the City. This includes, but is not limited to, car sharing services, Culver CityBus system, Culver City's future microtransit service, Metro system, and other bike sharing systems. A map of the city, including existing bike infrastructure, shall be provided to Users for enhanced navigation.

6) Information displayed on Vehicles shall include:

- Contact information for the Users or members of the public to make relocation requests, report Vehicles that are incorrectly, improperly or illegally parked, or other issues with the Vehicles. The contact information needs to include the following:
    a) Toll-free phone number;
    b) E-mail address;
    c) A local or toll-free number that can be used by subscribers, or the public who are not subscribers, to notify Operator using text (SMS) messaging; and,
    d) Vehicle identification number.

b. Fleet Management and Maintenance

1) Operator shall deploy a minimum of 50 Vehicles daily and may deploy up to a maximum of 200 Vehicles within Culver City in the initial deployment. Thereafter, Operator may submit a request, with supporting documentation, to City to increase or decrease the number of Vehicles permitted in Culver City. City reserves the right to approve or deny such request. City will conduct evaluations on the use of the Vehicles and may require the Operator to adjust the fleet size deployed within Culver City during the Term of the Operating Agreement.

2) Operator shall notify City one week prior to the initial deployment and prior to the deployment of any additional Vehicles to the fleet. Operator shall work with City and submit to City for review and approval a digital deployment map that indicates the intended deployment locations of Vehicles to be deployed within Culver City. Operator shall keep this deployment map up-to-date during the Term of this Operating Agreement and shall work with City and its 3rd party software vendor(s) to integrate the real-time and historical deployment locations into City's 3rd party vendor software for monitoring and evaluation purposes.

3) Operator shall submit to City for review and approval a Rebalancing and Maintenance Plan that will provide details on how the Vehicles will be rebalanced and maintained in daily operation and throughout the Term of this Operating Agreement. Operator shall continue to work with the City to continue to update and refine the Rebalancing and Maintenance Plan during the agreement period. The Rebalancing and Maintenance Plan must include, but are not limited to the following elements:

1) Description of staff quantities, employment type, training procedures
2) Description of maintenance activities, frequency, and location.
3) Frequency of device inspection for wear and tear, and stress-based damage.
4) Description of battery charging, replacement, and recycling procedures

4) Operator will attend an on-site meeting with City staff to discuss the Pilot Program and demonstrate Vehicle compliance with Section 5.a of this Agreement.

5) Operator shall affix its logo to each of its Vehicles deployed within Culver City so that it is clearly visible and shall not allow other logos or advertisements to appear on any Vehicle.

6) Operator shall ensure each Vehicle is in working order, properly maintained, clean, and safe to be ridden. Operator shall provide a certification to City that each of the Operator's Vehicles has met all conditions of this Operating Agreement, the Street Use Permit, other City's requirements, the California Vehicle Code, and any United States Department of Transportation safety requirements. Vehicles not meeting all such requirements shall not be allowed to operate in Culver City.

7) Operator shall share its system maintenance strategy and process with City, both prior to operations, and upon further request by City, including maintenance frequency/practices and staff training procedures. Maintenance shall include:
- Regular Vehicle inspection for wear and tear, and stress-based damage that could lead to failure;
- Maintenance and repair consistent with or exceeding manufacturer's recommendations;
- Immediate replacement of worn or damaged parts; and
- A strategy for maintaining electric batteries, both for daily use and long-term replacement.

8) Vehicles that are not operable shall be removed from the public right-of-way promptly, including inoperability due to insufficient battery power, communications failure, or other systems and software failures. Inoperable Vehicles, or any Vehicle that is not safe to operate, shall be made unavailable to the public via Vehicle lock-down and removed within one (1) hour of being reported.

9) Operator shall keep a record of all maintenance performed for each Vehicle and shall make it available to City upon request. Operator shall perform monthly maintenance on each Vehicle that includes the following:

- Check tire pressure (if applicable), and add air as may be needed, to recommended Pounds per Square Inch measurement;
- Check the tightness of handlebars, headset bearings, and full handlebar range of motion (left to right);
- Check brake function (front and rear), and check grips for wear and brake levers for tightness and damage;
- Check bell for tightness and correct function;
- Check handlebar covers for damage and instruction stickers;
- Check battery for damage or wear;
- Check lights for function;
- Check reflectors to see if they are present, clean and undamaged;
- Conduct a brief test ride to ensure the overall correct function of Vehicle; and
- Clean the Vehicle.

c. Operations

1) This Operating Agreement is effective only for operations within Culver City.

2) Operator shall obtain a business tax certificate and pay business tax for the revenue associated with Culver City operations.

3) Operator shall have a staffed operation center located in or within reasonable distance to Culver City so as to allow for prompt response to safety concerns, Vehicle malfunctions, illegal parking, and complaints.

4) Operator shall maintain the following methods of communication for Users or members of the public to report safety concern, vehicle malfunctions/maintenance issue, illegal parking, complaints, or to ask questions or make relocation requests:

- Toll-free phone number;
- E-mail address; and,
- A local or toll-free number that can be used by subscribers, or the public who are not subscribers, to notify Operator using text (SMS) messaging. Notifications by text or SMS shall be entered into a system for journaling and action by the appropriate Operator's staff and shall be added into the appropriate reporting areas.

5) Operator shall maintain and share with City direct contact information of operations team. Operator shall provide direct contact information of an Operator's representative to each business association located in Culver City.

6) Operator shall work with the City and provide a dedicated service email to be integrated with City's Civic Relationship Management (CRM) system. The CRM system will notify the Operator through the Operator-dedicate service email with service requests that relate to the Operator. Operator shall be responsible for responding to and addressing CRM tickets and confirming the resolution of tickets via the CRM system.

7) Operator shall respond to all requests for rebalancing and reports of incorrectly parked Vehicles, and other requests and reports of issues by relocating, re-parking, or removing Vehicles, as appropriate, based on the following times:

- 6 AM to 10 PM – within one (1) hour of receiving notice from the City/User/member of the public or as a result of Operator monitoring

8) In the event a Vehicle is not relocated, re-parked, or removed within the timeframe specified above, or any Vehicle is parked in one location for more than 48 hours without moving, such Vehicles may be impounded by City crews and taken to a City facility for storage at the expense of the Operator. Operator shall be responsible for all City costs associated with impounding the Vehicle(s).

9) If any City department or office incurs any costs addressing or abating any violations of this Agreement or incurs any costs of repair or maintenance of the public property, the Operator shall reimburse the City for such costs within thirty (30) days of receipt of an invoice detailing such costs.

6. SYSTEM DESIGN & DISTRIBUTION

   a. Operator shall have a system operations strategy that provides an equitable distribution of Vehicles, which ensures Vehicles are available and accessible throughout neighborhoods, commercial areas, and key destinations citywide. Operations shall also limit the excessive concentration of Vehicles in congested areas. Adequate ground operations shall be provided to ensure the safe, accessible and responsible placement of Vehicles. Operator shall communicate their strategy for the deployment of Vehicles to the City, including information about the type of workforce employed, staffing levels, and general rebalancing schedules.

   b. The System design shall identify equitable Vehicle deployment locations that adequately distribute Vehicles and minimizes over-concentrations in high demand locations.

   c. Operator shall implement parking confirmation and notification systems to reduce poor parking behavior. Operator shall work with the City to create systems for Operator's staff, chargers and users to utilize designated deployment and/or parking areas in the public right-of-way using a geofence or equivalent technology. Users shall be informed, directed and incentivized by the Operator, with ride credit or other equivalent financial incentives, to return equipment to those predesignated deployment locations or drop zones. Operator shall indicate the drop zones on the Operator's mobile application (App) and report utilization to the City in a format defined by the City. These drop zones are to be designed and proposed by the Operator. Operator shall submit a proposed Culver City branded floor decals and site plans of the proposed drop zones for City review and approval. Operator shall install the drop zone decals per the approved site plans after receiving a Notice to Proceed issued by City.

   d. Operator shall provide staff or other contracted services to constantly rebalance the distribution of Vehicles throughout the day to achieve an equitable distribution of Vehicles.

   e. Operator shall implement location-based speed reduction strategies in designated areas throughout the City and for special events. Vehicles shall

be deactivated or motor speed reduced to 1 mph in areas designated by City. Operator shall notify Users of the prohibition of use in those areas and encourage compliance with the prohibition. City will provide the prohibited locations to Operator on a map, which shall be included in Operator's App. Speed reduction and deactivation in other areas might be required for special events.

7. DEPLOYMENT AND PARKING.
   a. Operator shall obtain a permit to deploy Vehicles from the public right-of-way. Use of public sidewalks shall not:
      - Adversely affect the streets or sidewalks,
      - Inhibit pedestrian movement, or
      - Create conditions which are a threat to public safety and security.

   b. Operator shall deploy their Vehicles on the street only in marked space(s) that are officially designated locations for the Vehicles.

   c. Vehicles shall be parked upright in the landscape/furniture zone of the sidewalk, beside a bicycle rack or in another area specifically designated for Vehicle parking. Within reasonable timeframe, all Vehicles should be equipped with technology that (i) notifies the Operator if the Vehicle is not standing upright; and (ii) prevents Users from ending a ride if the Vehicle is not standing upright.

   d. No Vehicles shall be parked on blocks that do not have landscape/furniture zones that are at least three (3) feet wide; or, if such space is not available, in such a manner as to impede pedestrian or motor vehicle access and normal operation of the public right-of-way. Landscape/furniture zone is defined as the area between the roadway curb face and the front edge of the walkway.

   e. Vehicles shall not be deployed or parked in such a manner as to:

      - Impede the regular flow of travel in the public right-of-way or the clearance on sidewalk needed for American Disability Act (ADA) compliance;
      - Violate California Vehicle Code section 21235(i) or the Culver City Municipal Code;
      - Impede or interfere with the access to parked Vehicles and parking meters/pay stations;

- Block any fire hydrant, call box, or other emergency facility; or utility pole or box; or traffic signal controller cabinet;
- Impede or interfere with the reasonable use of any bicycle rack or news rack; and,
- Impede or interfere with the reasonable use of any commercial window display or access to/from any building or driveways, bikeshare stations, bus stops.
- Be parked on private property except as permitted by approval in Section 7.i below

f. Vehicles shall not be deployed or parked in the landscape/furniture zone adjacent to or within:

- Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks;
- Loading zones;
- Disabled parking zones, or any other accessible pathways or routes that would otherwise create a barrier to accessibility;
- Street furniture that requires pedestrian access (e.g. benches, parking pay stations, bus shelters, transit information signs, parking meters, etc.);
- Curb ramps;
- Entryways;
- Driveways; and,
- Parklets.

g. Vehicle deployment shall observe the following rules:

- Vehicles shall not be deployed within eighteen (22) inches from the face of curb.
- Vehicles shall not be deployed within forty-eight (48) inches of parking meters.
- Vehicles shall not be deployed within thirty-six (36) inches of fire hydrants.
- Vehicles shall not be deployed on the sidewalk adjacent to passenger loading zones (white curb) or commercial loading zones (yellow curb).
- Vehicles shall not be deployed on sidewalks or streets with more than five percent (5%) grade incline.
- Vehicles parked immediately adjacent to or within a transit stop, immediate waiting/loading/unloading zones, accessible parking zone or other facilities specifically designated for handicap accessibility, fire hydrant, curb ramp, entryway, driveway, or

parklet, shall be considered an immediate hazard or obstruction and are subject to impoundment.

h. Vehicles shall not be deployed or parked at the corners of sidewalks nor at any crosswalk, curb ramp, or within any feature that serves as an accessible element such as landings, areas of refuge, detectable warning surfaces, or any other physical feature that may be required for mobility. Vehicles shall not be deployed or parked within 15' of street corner pedestrian ramps (25' if there is only a single pedestrian ramp).

i. During deployment and rebalancing, employees, contractors and any other agents of the Operator shall obey the following guidelines:

   a. Buses shall be given priority at all approaching or departing transit stops.
   b. Where public transit buses are approaching a transit stop and when safe to do so, Operator's employees, contractors, and any other agents shall allow such buses to pass so they may stop at transit stops.
   c. Operator's employees, contractors, and any other agents shall not park or stop vehicles used for deployment and rebalancing ("Distribution Vehicles") at red curbs.
   d. Operator's employees, contractors, and any other agents shall pull Distribution Vehicles all the way up to, and parallel with, the curb for Vehicle loading and unloading, and shall not load or unload Vehicles in a car or bicycle lane, or in a manner that impedes travel in these lanes.
   e. Operator's employees, contractors, and any other agents shall comply with all applicable state, federal, and local laws. If the City in its sole discretion determines that an Operator's Vehicle distribution or rebalancing activities are being performed in an unsafe manner or in violation of applicable parking and traffic laws, such a determination shall be grounds for permit revocation.

j. The City reserves the right to determine certain blocks where Vehicle deployment or parking is prohibited or to create geo-fenced zones with defined boundaries within certain areas where Vehicles shall be deployed or parked. City will work in good faith with Operator to determine and locate geo-fenced zones so as to be convenient for public access.

k. The Operator shall stop placing Vehicles for deployment in front of any address provided by the City, within 48 hours of notice.

l. To the extent Operator desires to deploy or park Vehicles in areas other than the public right-of-way (e.g. parks, plazas, parking lots, private property, or transit stations), the Operator shall first obtain the right to do so from the appropriate City department, property owner, or public agency and shall communicate this right to Users through signage approved by the City and also the respective entity and/or through a mobile or web application. When using private property, Operator shall ensure the property owner obtain any required permits from the City for such use.

m. Operator shall require Users to take and submit a photo of the parked Vehicle via the App at the end of a ride. Operator shall monitor the submitted photos and take prompt actions to address Vehicle parking violations.

n. Operator shall create and implement a plan with strategies to ensure appropriate parking behavior by its Users and people responsible for deploying its Vehicles through education, information, incentives and penalties as a part of the Parking Behavior Improvement Plan, which shall be submitted to the City prior to deployment for review and approval. The Parking Behavior Improvement Plan should include, but is not limited to, parking confirmation photo verification systems, parking rating, parking reporting systems and creating geofenced no-start or no-end ride zones, as determined by the City. Operator shall educate Users and people responsible for deploying its Vehicles on how to appropriately park Vehicles at the time of each rental/deployment. Operator is encouraged to provide clear and specific parking information during every ride through in-app messaging, video or virtual reality features. Messages should inform Users that improper parking puts others at risk. Operator should develop systems to review and link Users and people responsible for deploying its Vehicles to violations. Operator shall provide incentives for encouraging proper parking in designated drop zones and will be responsible for passing on fees and disincentives to User for illegal parking.

8. EQUITABLE ACCESS
   1) Operator shall establish and promote low-income qualified rates and provide a system for User sign up and payment that enables easy use of the reduced rates. Operator shall offer incentives such as education, outreach and payment plans for low-income or other disadvantaged Users is strongly encouraged.
   2) In addition to equitable Vehicle distribution discussed in earlier sections, it is desirable that Operator offers means of accessing Vehicles that do

not require the use of a smartphone and/or access to a credit or debit card.

9. <u>USER ENGAGEMENT</u>

   a. Operator shall engage with Users to protect the safety of all roadway users. Engagements should include virtual (online, video, and other digital media), physical and in-person methods. Regular, repeated, and interactive engagement is strongly encouraged, as well as the use of effective and creative methods of reaching people. This engagement should consider the needs and concerns of Users as well as non-users of the system. Engagement should reflect values consistent with the community, including but not limited to, safety, civic/civil engagement, mobility options, sustainability and wellbeing, and encourage behaviors consistent with those values.

   b. Operator shall implement a driver's license validation system to ensure compliance with California State law. The system shall include periodic re-validation, and a method for performing driver's license validation on any Users that signed up prior to the validation system being in operation and re-validation of each user's license once every 3 months.

   c. Helmets
      1) Operator shall notify Users that helmet use is essential to reduce injury in the event of a crash or fall. Operator should regularly remind Users to use a helmet for their own safety.

      2) Operator shall provide regular, creative and effective outreach to educate Users on helmet use through means such as street teams, ambassadors, print media and social media. It is preferred that the operator provide marketing and information to the community at large regarding helmet use as part of overall roadway safety practices. Operator shall work with local businesses or other organizations to promote the use of helmets by Users through partnerships, promotional credits, and other incentives.

   d. Education
      1) Education and outreach should be oriented to the community at large to reach both Users and non-users of the system.

      2) Operator's website and App shall have prominently displayed message that informs Users about applicable laws and regulations and requires

Users to agree to follow applicable rules before allowing them to unlock a Vehicle.

3) Operator shall provide notice of safety information and rules by means of signage or through a mobile or web application. Operator shall educate Users about safety rules and regulations at the time of sign-up and before every ride. Proof of in-app messaging shall be provided to City Staff every month as part of the monthly report. Information provided to Users shall include, but not limited to the following:
- Obey all applicable California Vehicle Code requirements;
- Must wear helmets when legally required and should wear helmets when not;
- Sidewalk riding is prohibited;
- Ride in a manner that is safe and courteous to others;
- Ride one person per Vehicle;
- Park in appropriate locations including designated drop zones;
- Be at least 18 years old with a valid Driver's License to operate a Vehicle;
- No riding under influence;
- Park Vehicles in the permitted areas only;
- When riding on-street, follow the rules of the road, following all motor-vehicle laws and applicable ordinances of the City;
- Only ride Vehicles on streets, and where available, in bike lanes and bike paths;
- When riding a Vehicle, stay to the right of street lanes and yield the right of way to bicycles in bike lanes and on bike paths;
- Not use Vehicles for racing, "stunts", or jumps;
- Associated penalties for violation of any of the above; and
- How to report an issue.

4) This information should be provided in an interactive format, using images or video as well as text. A knowledge confirmation tool, such as a User safety and parking test, shall be implemented. Software shall regularly inform and educate Users on rules such as traffic and parking laws, the cost of fines, and staying off of sidewalks. Additional App notification should be provided for events and during peak use periods. Customer service information should also be provided. It is desired that the Operator coordinates with the City and financially contribute in order

to establish broad-reaching education and riding etiquette campaigns to help inform Users of appropriate User behavior.

5) Each Vehicle shall clearly post safety information on the Vehicle. Safety information should include requirements to wear a helmet and obey all traffic signs and rules, including not riding on sidewalks. Safety information should be printed in sizable, legible print or graphics.

6) Operator shall regularly deploy ambassadors and/or street teams to inform Users on safety and appropriate Vehicle use (including parking). The number of people, hours and general location of engagement shall be communicated to the City. Operator should share information from this outreach to inform problem-solving efforts with the City.

7) Operator shall host or participate in monthly events, classes, rides or other publicly-available means to inform and educate people. Hosting/participating these more frequently than monthly is preferred. Operator shall provide the City with a monthly list of planned community engagements and shall provide descriptions of information provided and photos at the events.

e. Vehicles rental rates, which may vary by duration of usage or by duration of usage and distance, shall be clearly and understandably communicated to the User prior to Vehicle use. Operator shall submit description of pricing structure, rates, and methods of communication to User for review and approval by City prior to the initial deployment and rate adjustments. Operators must notify the City and customers at least 14 days in advance of any rate changes.

f. Operator shall include a copy of its User Agreement and Privacy Policies for review and approval by City. Operator shall provide notice to City regarding any changes to these terms of service, User agreements, or privacy policies for the duration of this Operating Agreement.

g. Operator shall maintain, and make available 24 hours a day, seven days a week:
1) A multilingual website with languages to be determined in consultation with the City;
2) An App; and
3) A call center that will respond to calls and SMS messages.

h. Customer service shall be responsive to community complaints and feedback, and should:
1) Coordinate with the City to develop a process to report issues and concerns.
2) Allow Users to submit notifications on Vehicle or system operations issues.
3) Strive to use technology to reduce all customer service response times.

It is preferred that the operator provide additional customer support and service mechanisms (e.g., mobile applications like Twitter, texting, websites like Nextdoor.) Customer support shall be available 7 am – 10 pm daily. Service in multiple languages, especially Spanish, is preferred.

10. DATA AND REPORTS.
a. System and Mobile Application
1) Operator shall provide a publicly accessible App that shows:
- The current location of any available Vehicles; and, The streets in the City that currently do not permit the use of Vehicles.

2) Operator shall maintain the security of User Data as follows:
- Users' personal information shall be protected using industry standard encryption, and User permission shall be obtained in writing before sharing data with a third party.
- Users' financial transaction information should comply with the Payment Card Industry Data Security Standards (PCI DSS).

b. Data Sharing
1) Operator shall work in good faith with the City to provide any and all data the City needs to evaluate the operation of Operator's dockless shared micromobility system in the City.

2) Raw data supplied by an Operator shall be held confidentially between the City and the Operator to the extent that is permitted by law. However, summaries, program utilization data, and trend data may be made public.

3) Data shall be submitted in proper format through a secure file transfer method determined by the City.

4) Personally Identifiable Information on Users collected by Operator may not be transmitted to, processed or stored at a destination outside of the United States.

5) The City is permitted to display real-time data provided via the API and may publish real-time Vehicle availability data to the public. Third parties are permitted to republish any data the City publishes.

6) Operator shall distribute, at a minimum, one City-provided customer survey every 12 months to Users per City's request during the Term of this Operating Agreement.

7) Operator shall immediately notify the City and all required Users of a known data security breach.

c. Data Specifications

1) Operator shall provide accurate data through a publicly accessible Application Programming Interface (API) that meets the requirements of the General Bikeshare Feed Specification (https://github.com/NABSA/gbfs). It is desirable that Operator makes the API endpoint available to the public for viewing data, querying data, and mapping. Operator should not change the API URL without notifying the City with at least 30 days' notice.

2) Mobility Data Specification (MDS)
   - Operator shall provide a City-accessible API that provides the data outlined within, and meets MDS as published online at http://github.com/CityOfLosAngeles/mobility-data-specification.
     - Operators shall make data available via the /status_changes endpoint no more than two (2) hours after the occurrence of a state change event and via the /trips endpoint no more than two (2) hours after the end of a trip.
     - The City may, in its sole discretion, require operator support for any optional and/or experimental feature of the MDS. The City will provide a minimum of 30 days' notice for any change in required feature support.
     - The City may, in its sole discretion, release updated versions of MDS and/or require operators to use a version of MDS designated by the City. The City will provide a minimum of 30 days' notice for any required version change.

- Operators shall maintain or develop connections to ingest all MDS "Policy" endpoints that the city populates information for.
- The City is permitted to use all data the operator provides in accordance with the MDS, including, but not limited to, displaying real-time device availability data to the public.

o Any MDS compatible API shall expose data where:
- The trip starts in the City of Culver City, or
- The trip ends in the City of Culver City, or
- GPS telemetry data shows the trip passing through the City of Culver City, or
- A crow-flies path between trip start and trip end intersects the boundaries City of Culver City

- Operator may not change the API URL without notifying the City with at least 30 days' notice. Operator shall provide a standardized dashboard interface to support the City in viewing data, querying data, and mapping.

- Personal information shall be protected by the Operator, and data should be anonymized regarding User information. Summarized program performance information in memos or updates may be shared with the public. Detailed data will be protected to the extent permitted by law.

- Notwithstanding the returned results of any of the Mobility Data APIs, it shall be the sole responsibility of the Operator to comply with the Pilot Program requirements listed herein. Failure to maintain consistently accurate and real-time data could result in Agreement suspension until the issues identified by City are resolved.

- City may conduct maintenance on, stop providing, and/or change the method of access to the Services, Software, and/or Content at any time, with or without notice to the Operator. For the avoidance of doubt, the City, in its sole discretion, may temporarily or permanently suspend Operator's access to the Services, Software, and/or Content under this Agreement.

- City reserves the right to share data collected with third parties to process and analyze data and to use it for program planning, operations purposes, and other City project purposes. Operators must provide the MDS API to a City identified third party researcher or contractor in accordance with City direction.

- The City may adopt additional data sharing requirements that provide the City, and any authorized third-party contractor of the City with real-time and collected shared mobility device data available through the operator's application program interface.

d. Reporting
   1) Operators shall provide a monthly report by the second Thursday of each month using the City-provided report template (Attachment B) that includes:

- Total mobile-app downloads in Culver City each month
- Total Active Users in Culver City each month
- Total Users with 3 or more trips in Culver City each month
- Total number of customers participating in low-income program in Culver City each month
- Total number of rides taken by low-income program participants in Culver City each month
- Total number of free or discounted helmets distributed each month
- Summary of complaints and resolutions
- Total number and type of injuries reported each month
- Total number of unique devices deployed in Culver City each Month
- Total number of devices serviced each month
- Total number of devices lost, stolen, or missing each month
- Total number of contracted workers employed each month (if applicable)
- Vehicle Miles Traveled in redistribution, maintenance, and complaint response each month
- Total number, time length, description, and participant counts of community engagement or outreach efforts
- Total number and description of education and outreach events and hours worked

   2) The City may elect to adjust the reporting timeframes and format in its sole and complete discretion.

11. EVENTS AND EMERGENCIES
    a. Operator shall work with the City in the case of emergencies or special events to prioritize the safety of Users and respond to municipal concerns. Operator may be asked to participate in a plan for special event operations. For example, Operator shall be prepared to work with the City on modified operations during Fiesta La Ballona, Go Human Demonstration, CicLAvia and Screenland 5k marathon, or other events, by adjusting deployment plans, providing additional operations staff, relocating parking, modifying User access, and informing Users about system changes. Operator shall cooperate with and follow any and all directives of the City's Director of Emergency Operations and public safety personnel in the case of emergencies; and shall comply with agreed upon operations plans for special events. Operator is expected to proactively communicate with Users during events and emergencies. Access to real-time Vehicle data shall be provided to the City public safety personnel during emergencies and requested events.

    b. For Vehicles on public property, the City may require Operator to temporarily move Vehicles to a nearby location if the approved location needs to be used for emergency, event, construction, or public purposes. Vehicles may also be moved by City for these purposes.

12. USER RELEASE
    a. Operator shall include release language in their system's User sign-up process, which is substantially consistent with the following (the "Release"):

    "For and in consideration of rental and use of the Vehicle, User, for himself or herself and on behalf of User's heirs, executors, administrators and assigns, forever releases and relinquishes and discharges the City of Culver City and its elected and appointed officials, officers, employees, agents, contractors, and volunteers (collectively, "City") from any and all claims, demands, disputes, losses, liabilities, debts, liens, charges, penalties, proceedings, causes of action and damages including for personal injury, wrongful death, property damage, and injury to User or to third parties (collectively, "Claims"), including unknown or unanticipated Claims, which arise from or are related directly or indirectly to this agreement or the rental, maintenance, design, placement, use and/or operation of the Operator's equipment,

including the e-bikes, scooter, or the Operator's website, including any and all Claims related to the sole or partial negligence of the City or any other party. User herby expressly waives any Claims against the City which User does not know or suspect to exist in his or her favor at the time of renting a scooter, and expressly waives User's rights under any statues that purport to preserve User's unknown Claims."

b. Each User registered in the system shall affirmatively sign or check a box within the application notating consent to the Release.

13. <u>INSURANCE AND INDEMNIFICATION</u>.

a. Without limiting its obligations pursuant to Section 13.g, below and at all times during the term of this Operating Agreement and any use of the public right of way by Operator pursuant to this Operating Agreement, Operator shall procure and maintain the insurance coverage set forth below:

1) Commercial General Liability ("CGL") Insurance coverage, at least as broad as ISO Form CG 0001, in the minimum amount of Five Million Dollars ($5,000,000) per occurrence, with not less than Six Million Dollars ($6,000,000) in annual aggregate coverage. These insurance requirements may be met by umbrella or excess policy, provided that it shall not include any exclusions or clauses that limit or delete the underlying policy. The CGL policy shall have the following requirements:

- The policy shall provide coverage for personal injury, bodily injury, death, accident and property damage and advertising injury, as those terms are understood in the context of a CGL policy. The coverage shall be utilized to satisfy, to the extent of the coverage limits, the City's self-insured retention under any other policy of insurance. The coverage shall not be excess or contributing with respect to City's self-insurance, commercial liability insurance, or any pooled risk arrangements;

- The policy shall provide $3,000,000 coverage per accident for owned, hired and non-owned automobile liability. Automobile liability coverage may be satisfied with a stand- alone policy or as a component of the CGL policy;

- The policy shall include coverage for liability undertaken by contract covering, to the maximum extent permitted by law, Operator's obligation to indemnify the Indemnitees as required under Section 13 .g of this Operating Agreement;

- The City of Culver City, members of its City Council, its boards and commissions, officers, agents, and employees will be named as additional insureds in an endorsement to the policy, which shall be provided to the City and approved by the City Attorney;

- The Policy shall not contain an "Independent Negligence" provision that would void or otherwise nullify the insurer's obligation to defend and indemnify the City of Culver City in the event that its independent negligence is alleged or proven;

- The CGL limits may be satisfied with a primary policy with $5,000,000 occurrence/$6,000,000 annual aggregate, OR, by a primary policy with lower limits of coverage plus an Excess or Umbrella policy which will satisfy the occurrence and aggregate limit requirement. If Operator's insurance coverage provides coverage in excess of these required limits, but is eroded by payment or claim reserves, then Operator or its insurance carrier shall notify the City of Culver City within ten (10) days when the contractual coverage limits provided are below the required coverage limits; and

- The City of Culver City reserves the right to review and waive or modify the CGL aggregate requirement in the event that an adequate project specific policy and limits are provided.

2) If this Operating Agreement will have Operator employees working within the City limits, Operator shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability insurance (with limits of at least one million dollars [$1,000,000] per accident.) Operator shall submit to City, its officers, agents, employees and volunteers.

b. City may waive one or more of the coverages listed in Section 13.a, above. This waiver shall be express and in writing, and will only be made upon a showing by the Operator that its operations in and with respect to City are not such as to impose liability within the scope of that particular coverage. Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

c. All insurance listed in Section 13.a, above, shall be issued by companies licensed to do business in the State of California, with a claims paying ability

rating of "BBB" or better by S&P (and the equivalent by any other Rating Agency) and a rating of A-:VIII or better in the current Best's Insurance Reports

d. Operator shall provide City with at least thirty (30) days prior written notice of any modification, reduction or cancellation of any of the Policies required in Section 13.a or a minimum of ten (10) days' notice for cancellation due to non-payment.

e. City may increase the scope or dollar amount of coverage required under any of the policies described in Section 13.a, or may require different or additional coverages, upon prior written notice to Operator.

f. If Operator, for any reason, fails to maintain insurance coverage which is required pursuant to this Operating Agreement, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this Operating Agreement and obtain damages from the Operator resulting from said breach.

g. Independent of Operator's obligations pursuant to Section 13.a above, Operator shall defend (at Operator's sole expense, with legal counsel selected by City), indemnify and hold harmless the City, members of its City Council, its boards and commissions, officers, directors, employees, agents, servants, successors, assigns and subsidiaries (collectively "the Indemnified Parties"), from and against any and all losses, damages, liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, costs, expenses and reasonable attorneys' fees and judgments, including civil, criminal, administrative or investigative, arising out of, in connection with, or which are in any way or manner related to this Operating Agreement, including, but not limited to loss or damage to persons or property, arising out of or in any way related to Operator's or its Users' use of the public space, public right-of-way, or public property, the City's issuance of or decision to approve the Operator's Permit, the process used by the City in making decisions, Operator's participation in the City's dockless shared micromobility program, the Operator's (including its officers, managers, employees, contractors, agents, and volunteers) business conduct and operations, any violation of any laws by the Operator (including its officers, managers, employees, contractors, agents, and volunteers) or its Users, including but not limited to place or misplacement of Operator's Vehicle, property or equipment by any person resulting in alleged violations of the Americans with Disabilities Act (ADA) or any other federal, state, or local law or regulation. This indemnification includes, but is not limited to, statutory or tort liability to a third person for bodily injury

and property damage. Operator agrees that this obligation to indemnify, defend and hold harmless extends to liability and/or claims arising from Indemnified Parties' active or passive negligence. Notwithstanding the foregoing, nothing herein shall be construed to require Operator to indemnify an Indemnified Party from any claim arising from the sole negligence or willful misconduct of that Indemnified Party. The duty to defend referenced herein is wholly independent from the duty to indemnify, arises upon written notice by City to Operator of a claim within the potential scope of this indemnification provision, and exists regardless of any determination of the ultimate liability of Operator, City or any Indemnified Party.

h. California Public Records Act (CPRA) Indemnity: Operator undertakes and agrees to defend, indemnify and hold harmless the City of Culver City, members of its City Council, its boards and commissions, officers, directors, employees, agents, servants, successors, assigns and subsidiaries (collectively "the Indemnified Parties"), from and against all suits, claims, and causes of action brought for any Indemnified party's refusal to disclose Operator's trade secrets or other technical or financial information, or Operator's personally identifiable User data (collectively, "Operator's Information"), to any person making a request pursuant to the State of California Public Records Act (California Government Code Section 6250 et seq.) or its federal counterpart. Operator's obligations herein include, but are not limited to, all reasonable attorney's fees (both in house and outside counsel), reasonable costs of litigation incurred by the City or its attorneys (including all actual costs incurred by the City, not merely those costs recoverable by a prevailing party, and specifically including costs of experts and consultants) as well as all damages or liability of any nature whatsoever arising out of any such suits, claims, and causes of action, through and including any appellate proceedings, including, but not limited to, any award of attorney's fees and costs. Operator shall receive prompt notice from the City of (1) any communication to the City challenging the City's refusal to disclose Operator's Information, and (2) any complaint or petition to the court challenging the City's refusal to disclose Operator's Information. Should Operator choose to intervene in any court action relating to the City's refusal to disclose Operator's Information, the City shall not oppose Operator's motion to intervene. Operator shall be discharged of its obligations to the City under this provision in any circumstance where Operator provides written confirmation to the City that 1) all of the requested records at issue are not Operator trade secrets, technical, financial or other similar information or personally identifiable User data and 2) the City may release said records to the requester.

14. <u>DAMAGE TO PUBLIC PROPERTY</u>: Operator shall, at its sole cost and expense, repair or replace, to the reasonable satisfaction of the Public Works Director/City Engineer, broken or damaged City-owned or operated real or personal property or public right-of-way caused, directly or indirectly, by Operator's Vehicles.

15. <u>ADVERTISING</u>.
    a. Operator shall not advertise or publish the City's endorsement of the program in Operator's marketing or promotional materials without the City's prior written consent. Consent shall be obtained for each new campaign.

    b. Operator shall not utilize its Vehicles for the sale or display of third-party advertising.

16. <u>RECORDS</u>.
    a. Monitoring and Records.   Operator will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements. The City shall maintain records of all actions taken pursuant to this Operating Agreement, and shall make records available to Operator for inspection, if requested.

    b. Confidential Information. The City and Operator will use, restrict, safeguard and dispose of all information related to this Operating Agreement in accordance with all relevant state and federal and local statutes, regulations, policies, including, but not limited to, the California Public Records Act.

17. <u>NON-TRANSFERABILITY</u>. No transfer or assignment of this Operating Agreement, or of any part thereof or interest therein, directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer or assignment is first approved in writing by City.

18. <u>ENFORCEMENT AND TERMINATION.</u> The City may terminate this Operating Agreement without cause, in whole or in part, at any time by written notice to the Operator. Operator shall remit any final payment to the City no later than 60 days from the written notice of termination. Although cause is not required for termination, possible reasons the City may choose to terminate this Operating Agreement include, but are not limited to, the following:
    ● Failure to meet the terms and conditions set forth in this Operating Agreement;
    ● Failure to be in good standing with payment of taxes, fees, and citations;
    ● Failure to put Vehicles into service by _____ ;

- Failure to share data;
- Failure to abide by the Specification; and,
- Operator providing falsified data or the City suspects dishonest reporting.

In the event that this Operating Agreement is terminated, suspended or denied, Operator shall immediately remove all Vehicles and any associated equipment from the public right-of-way and participating private properties.

In the event operators can no longer service the City, the operator must notify the City and customers about service termination 45 days in advance to ensure system reliablility. Immediately after service termination, Operator shall implement the following measures on their system and customer app.

    a. Implement a "No Parking and no ride Zone" for all of Culver City in the Operator's system and display the geo-fence on Bird app.
    b. Remove all current and future Bird vehicles from the City Right of Way within 2 hours of the vehicles' appearing in the City.
    c. Implement a ride-start restriction on all vehicles that appear in Culver City.
    d. Clearly indicate on your mobile-app that Culver City is not Bird's service area and users cannot start their rides from within Culver City.

19. <u>MODIFICATION OF THE AGREEMENT</u>**.** The City may modify any of the terms and conditions contained in this Operating Agreement at any time and in the City's sole discretion. City shall consider any requests by Operator to modify this Operating Agreement and shall work in good faith with Operator to accommodate such requests, subject to City Manager's approval, in his sole discretion.

20. <u>NOTICES</u>. All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery, facsimile, overnight delivery, or by U.S. Mail. All written notices or correspondence sent pursuant to this paragraph will be deemed given to a party on whichever date occurs first; the date of personal delivery; the date of transmission, if sent by facsimile (with proof of transmission); the next business day following deposit with an overnight mail carrier; the fifth day following deposit in the U.S. Mail, when sent by "first class mail."

Notice sent by U.S. Mail shall be addressed as follows:

To City: City of Culver City
                    Attention: Chief Transportation Officer
                    4343 Duquesne Avenue
                    Culver City, CA 90232

To Operator: _____

              Attention: _____

              _____

              _____

21. <u>APPLICABLE LAWS, CODES AND REGULATIONS</u>. Operator shall perform the scope of this Operating Agreement in accordance with all applicable laws, codes and regulations required by all authorities having jurisdiction over such services.

22. <u>WAIVER</u>. If at any time one party shall waive any term, provision or condition of this Operating Agreement, either before or after any breach thereof, no party shall thereafter be deemed to have consented to any future failure of full performance hereunder.

23. <u>GOVERNING LAW</u>. The terms of this Operating Agreement shall be interpreted according to the laws of the State of California. If litigation arises out of this Operating Agreement, then venue shall be in the Superior Court of Los Angeles County.

24. <u>INTEGRATED AGREEMENT</u>. This Operating Agreement represents the entire agreement between City and Operator regarding the subject matter hereof, and constitutes a complete and exclusive statement of the terms of the agreement between the parties with respect to the subject matter. No verbal agreement or implied covenant shall be held to vary the provisions of this Operating Agreement. This Operating Agreement shall bind and inure to the benefit of the parties to this Operating Agreement, and any subsequent successors and assigns.

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25. <u>EFFECTIVE DATE</u>. The effective date of this Operating Agreement shall be _____. This Operating Agreement shall remain in full force and effect until amended or terminated; provided, that the indemnification and hold harmless provisions shall survive the termination.

_____

Dated: _____   By: _____
                                                _____
                                                _____

                                            CITY OF CULVER CITY

Dated: _____   By: _____
                                                John Nachbar
                                                City Manager

APPROVED AS TO CONTENT: APPROVED AS TO FORM:

_____   _____
        Rolando Cruz   Carol Schwab
Chief Transportation Officer   City Attorney