

MEMORANDUM OF UNDERSTANDING REGARDING

LUCKY TO RIDE™ PROGRAMS

This Memorandum of Understanding (this “Agreement”), dated effective _____, 2020 (the “Effective Date”), is executed by and between Lucky to Ride™, a Colorado nonprofit corporation (“LTR”) and _____ (“Program Partner”), herein “Party” or “Parties,” regarding the participation by youth associated with Program Partner (each a “Program Participant”) in any of LTR’s Ride Program, Learn to Earn Program, and Youth at Work Program, as more fully described herein (each a “Program”).

RECITALS

- (A) Program Partner desires to have the Program Participants participate in one or more Programs from time to time; and
- (B) LTR and Program Partner seek to clarify their respective roles and responsibilities with respect to participation in the Programs by the Program Participants.

In consideration of the promises and mutual covenants and agreements herein set forth, the Parties hereby agree as follows:

AGREEMENT

1. **Responsibilities of Lucky to Ride™.**
 - a. While Program Participants are participating in LTR’s introductory mountain biking Ride Program, LTR shall:
 - i. Provide trained ride leader(s) who are certified in Wilderness First Aid and Trauma Informed Care and have completed pre-season instructor training.
 - ii. Provide size appropriate mountain bikes for each Program Participant.
 - iii. Provide size appropriate helmets for each Program Participant.
 - iv. Provide a small snack, water and water bottles for each Participant
 - b. While Program Participants are participating in LTR’s Learn to Earn Program, LTR shall:
 - i. Provide ten hours of classroom instruction by a trained instructor.
 - ii. Provide at least three hours of interactive safe riding skills (included in the seven hours of classroom instruction)
 - iii. Provide each Program Participant who successfully completes the Learn to Earn Program a bike, helmet, lock and tools at the conclusion of the Program.
 - c. While Program Participants are participating in LTR’s Youth at Work Program, LTR shall:
 - i. Schedule 90 hours of work for the Program Participant over the term of the Program, with a at least half of the hours working in the Lucky Bikes Re-Cyclery
 - ii. Provide the Program Participant opportunities to develop career readiness, including retail management skills, soft skills (professional communication, time management, team building, financial preparedness) and basic computer/clerical skills.
 - iii. Provide the User Participant opportunities for on the job training in one or more of LTR’s Programs.
2. **Responsibilities of Program Partner.** Program Partner shall:
 - a. Provide transportation to and from the Program site for all Program Participants. For clarity, *LTR will not provide any motorized transportation for any Program Participant,*

and no Program Participant shall be permitted in any LTR vehicle.

- b. Ensure that prior to commencing any Program, each Program Participant and, if younger than 18, his/her parent or legal guardian, shall have signed the Participation Waiver provided by LTR, and given the signed waivers to a LTR representative. If a Program Participant does not have a signed waiver they may not participate in the planned activity and it is then the responsibility of the Program Partner to supervise these participants in another activity while also ensuring that there is a Program Partner adult representative accompanying the LTR leader in the planned activity (i.e. Ride or Learn to Earn).
 - c. Ensure that all Program Participants are physically capable of participating in the Program and that any health concerns with respect to a Program Participant are identified, adequately addressed, and communicated, before activity commences, to the LTR representative leading the Program. For any Program Participant who requires assistance for addressing a health concern (e.g. use of an inhaler or EpiPen), Program Partner will provide a trained representative to accompany such Program Participant.
3. **Term and Termination.** This Agreement will commence on the Effective Date and shall continue until terminated by either Party upon thirty (30) days written notice to the other Party. Either Party may at any time immediately upon written notice terminate this Agreement for cause: (a) after the occurrence and during the continuance of any breach or default by the other Party under this Agreement; or (b) after the bankruptcy or insolvency of the other Party or any parent company of the other Party.
 4. **Fees and Payment.** The fee per Program Participant for each Program shall be established when Program Partner schedules a Program, or at such other times as determined by LTR. LTR shall furnish Program Partner with invoices for the fees payable for each Program, and Program Partner shall, within 15 days of receipt of each invoice, make payment to LTR without any deduction or set-off.
 5. **Cancellation and Modifications.**
 - a. In the event that a scheduled Program is cancelled by LTR, for weather or other reasons, LTR will work with Program Partner to reschedule the cancelled Program at a later time that is acceptable to Program Partner and LTR. If a Program cancelled by LTR cannot be rescheduled, LTR shall refund any fees already paid by Program Partner with respect to said cancelled Program.
 - b. If Program Partner cancels a Program for any reason less than 15 days prior to the scheduled date of the Program, the fees associated with such Program shall remain due and payable and no fees associated with such cancelled Program shall be refundable.
 - c. Any reductions to the size of a Program Participant group for a Program must be communicated to LTR at least 48 hours prior to the scheduled Program. Unless Program Partner provides at least 48 hours prior notice of a reduction in the size of Program Participant Group, User will be responsible for payment for fees associated with the full number of Participants scheduled for the Program. Requests for an increase to the size of a Program Participant group will be considered by LTR but cannot be guaranteed.
 6. **Indemnification.** User shall defend, indemnify, and hold LTR and its officers, directors, employees, and agents (the "Indemnified Parties") harmless from and against any and all liabilities, claims, actions, suits, damages, fines, penalties, judgments, losses, costs and expenses (including reasonable attorney's fees, court costs, expert fees, and all other legal expenses) of every type and character (collectively, "Claims") (including Claims for personal injury to or death of any person, for damage to, loss of, or destruction of any personal or real property, and for breach of warranty) brought by Program Partner or any third party,

including Program Participants and any of their relatives, arising out of or related to (a) this Agreement, (b) Program Partner's breach of this Agreement, including, but not limited to, Program Partner's failure to obtain signed waivers as required by Section 2(b), or (c) any Program, or any participation therein.

7. **Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, ARISING UNDER THIS AGREEMENT OR THE PROGRAMS CONTEMPLATED HEREBY, BUT EXCLUDING DAMAGES TO THAT ARE SUBJECT TO INDEMNIFICATION UNDER THIS AGREEMENT. LTR's liability with respect to this Agreement, any Program, or any action relating to the same (whether in contract, equity, tort, or otherwise) shall be limited to, and shall not exceed, the lesser of: (a) the actual amount of direct damages incurred, or (b) the actual fees paid by Program Partner for the applicable Program giving rise to such liability.
8. **Insurance.** Program Partner shall maintain in force commercial general liability and commercial auto policies covering bodily injury and property damage. Program Partner's insurance program shall be in the following amounts: comprehensive general liability with a combined single limit and per occurrence limits of not less than \$1,000,000, and commercial auto policy with per occurrence limits of not less than \$1,000,000, with an annual general aggregate of \$5,000,000. Program Partner shall provide LTR with an annual Certificate of Insurance and an Additional Insured Endorsement for all liability arising out of this Agreement, and this endorsement shall protect LTR, its officers, agents and employees against liability for bodily injury, deaths or property responsibilities, or omissions under this Agreement.
9. **Independent Contractor Status.** LTR and any volunteer, employee, or agent of LTR shall be deemed at all times to be an independent contractor and not an employee of the Program Partner. Nothing in this Agreement shall be construed as creating an employment or agency relationship between LTR and Program Partner.
10. **Survival.** Sections 4, 5, 6, 7, 9, and 11 of this Agreement shall survive termination, cancellation, or non-renewal of this Agreement.
11. **Miscellaneous.**
 - a. Neither Party may assign any of its rights under this Agreement without the prior written consent of the other.
 - b. All notices hereunder shall be given in writing and shall be effective upon receipt by the addressee at the addresses set forth below the applicable Party's signature below.
 - c. This Agreement may be executed by electronic means, including .pdf, and in counterparts.
 - d. This Agreement constitutes the entire Agreement of the Parties with respect to the subject matter hereof and shall not be changed or modified except by written Agreement executed by both Parties.
 - e. If any term, covenant or condition of this Agreement, to any extent, is invalid or unenforceable, the remainder shall not be affected. Any rule of construction to the effect that any ambiguity is to be resolved against the drafting Party shall not be applicable in the interpretation of this Agreement.
 - f. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto, and their respective permitted successors and assigns.
 - g. This Agreement shall be governed by the laws of the State of Colorado, excluding any conflict of laws rule or principle that might refer the governance or the construction hereof to another jurisdiction.
 - h. The Parties hereby irrevocably submit to the jurisdiction of the Colorado State District

Court for the City and County of Denver, and to the jurisdiction of the United States District Court for the District of Colorado, for the purposes of any suit, action or other proceeding arising out of or relating to this Agreement and each Party waives any right to change venue. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON.

The Parties, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

Company: **Lucky to Ride™**

Program Partner:

Signature:

Signature:

Print Name:

Print Name:

Title:

Title:

Date:

Date:
