**MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING** (this "Agreement") is made effective as of the last date of signature below (the "Effective Date") by and between the **City of Leavenworth, Kansas** (the "City") and **Bird Rides, Inc.** ("Bird"), so as to permit Bird to provide services under the following terms and limitations. This Agreement shall remain in effect until and through April 12, 2023 unless terminated as set forth below.

**AGREEMENT**

1) Scope: This Agreement and its terms apply to any proposed deployment of stand-up electric scooter sharing systems that meet the definition of an "electric-assisted scooter" as set forth in K.S.A. 8-1498 (collectively, "Scooters") within the jurisdictional boundaries of the City, but excluding any private property not owned by the City, which may retain their own rules or policies regarding the use of Scooters, to the extent provided by applicable law. Bird shall not deploy Scooters in the City and, to the extent of Bird's requirements as described in this Agreement, allow persons to use Scooters in the City in violation of this Agreement.

2) Scooters and the use thereof shall be governed by and operated in accordance with such statutes, rules, and regulations as may exist under the laws of the State of Kansas applicable thereto, including but not limited to K.S.A. 8-15,113, Chapter 44 of the Leavenworth Code of Ordinances (as may be amended), and in accordance with the terms of this Agreement. By way of example only, the City and Bird understand that, as of the Effective Date, the rules applying to bicycles apply to Scooters such that Scooters are to be ridden on streets, and where available, in bike lanes and bike paths. Scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Users of Scooters shall be 18 or older, and have a valid drivers license. Additional terms are set forth on Exhibit A which is attached hereto and incorporated herein by this reference. Users of Scooters who violate these provisions may be fined by the City consistent with applicable law. Nothing in this Agreement shall be deemed to interpret, waive, or amend any Kansas requirements regarding the use of Scooters.

3) Bird shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Scooter for members of the public to make relocation requests or to report other issues with devices.

4) Hours of operation: Scooters will be made available to rent from 4 am to midnight pm (local time).

5) Bird shall provide a minimum of 50 Scooters at launch.

6) Safety Education: Bird will provide materials, videos, signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.

7) Data sharing: Bird will provide data to the City as necessary to assist with monitoring program usage.

8) Indemnification: Bird agrees to indemnify, defend and hold harmless the City, its affiliates, agents, employees, and governing body members from and against all actions, damages or claims brought against City arising out of Bird's negligence or willful misconduct or Bird's breach of this Agreement, except that Bird's indemnification obligation shall not extend to claims of City’s employees’, agents’ or affiliates’ negligence or willful misconduct. To the extent permitted by law, the City expressly acknowledges that in no event shall Bird be liable for any special, indirect, consequential or punitive damages. Bird shall have sole control of any defense; the City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird.

9) Insurance: Bird shall provide the City with proof of insurance coverage exclusively for the operation of Scooters including: (a) Commercial General Liability insurance coverage with a limit of no less than $1,000,000.00 each occurrence and $2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than $1,000,000.00 each occurrence and $1,000,000.00 aggregate; and (c) where Bird employs persons within the City, Workers’ Compensation coverage of no less than the statutory requirement.

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

City of Leavenworth, Kansas

Attn. Paul Kramer, City Manager

pkramer@firstcity.org

100 N. 5th Street

Leavenworth, Kansas 66048

Bird Rides, Inc.

Attn. Austin Marshburn

amarshburn@bird.co

406 Broadway #369

Santa Monica, California 90401

11) Either party may terminate this agreement at any time and without cause upon (30) days prior written notice. In the event of termination, Bird shall promptly remove any and all Scooters from within the City, and take such other steps as may be necessary to reasonably prevent operation of Bird Scooters within the City.

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

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

14) This Agreement shall be governed by and construed in accordance with the laws of Kansas.

**CITY OF LEAVENWORTH, KANSAS**

By:

Name:

Title:

Date:

**BIRD RIDES, INC.**

By:

Name:

Title:

Date:

**EXHIBIT A**

[Additional Operating Requirements]

* Scooters may not have the ability to exceed (on their own power) fifteen (15) miles per hour
* Bird and Scooters must have capability to comply with City-designated Geo-fenced slow-down and no ride zones, as maybe established by the City.
* Each person can unlock only one Scooter at a time – one rider cannot pay for a group or family.
* Communication and outreach – rider requirements must be posted on each Scooter including the minimum age for riders and no riding on sidewalks.
* Bird must have the capability to shut down user accounts with multiple violations.





