

USER AGREEMENT  
City of Lincoln Bike Share Program

TERMS AND CONDITIONS, RIDER'S RELEASE OF LIABILITY, ASSUMPTION OF RISK, INDEMNITY AND HOLD HARMLESS.

RIDER should CAREFULLY READ all terms and conditions before entering this Agreement.

1. PURPOSE OF AGREEMENT

This document constitutes the entire Agreement ("Agreement") between (a) The person agreeing to lease and use the Bike, or in the case of RIDERS ages 12 to 18 said RIDER'S parent and/or legal guardian, ("RIDER"), and (b) the City of Lincoln, Nebraska ("CITY").

2. GENERAL RENTAL AND USE OF BIKE: Agreements and Restrictions

2.1 RIDER is sole user: CITY expressly agrees to allow, and the RIDER expressly agrees to take on, rental of the Bike subject to the terms and conditions set out herein. CITY and the RIDER are the only parties to this Agreement. The RIDER is the sole lessee and is solely responsible for compliance with all terms and conditions contained herein.

2.2.1 eBike RIDER is 16 years of age or older: RIDER represents and certifies that RIDER is at least 16 years old to operate an eBike. If RIDER intentionally or unintentionally misrepresents his/her age, RIDER accepts full responsibility and is liable for any consequence, claims, demands, causes of action, losses, liabilities, damages, injuries, costs and expenses, penalties, attorney's fees, judgments, suits or disbursements of any kind or nature whatsoever related to any such misrepresentation.

2.2.2 Classic Bike RIDER is 12 years of age or older: RIDER represents and certifies that RIDER is at least 12 years old to operate a Classic Bike. If RIDER intentionally or unintentionally misrepresents his/her age, RIDER accepts full responsibility and is liable for any consequence, claims, demands, causes of action, losses, liabilities, damages, injuries, costs and expenses, penalties, attorney's fees, judgments, suits or disbursements of any kind or nature whatsoever related to any such misrepresentation.

2.3 RIDER is a competent bike operator: RIDER represents and certifies that he/she is familiar with the operation of the Bike, and is reasonably competent and physically fit to ride the Bike. Further RIDER represents that he/she is familiar with and hereby assumes the risks associated with operating the BIKE.

2.4 Bike is the exclusive property of CITY: RIDER agrees that the Bike and any equipment attached thereto, at all times, remains the exclusive property of CITY. RIDER will not make any modification to the Bike at any time.

2.5 Bike Operating Hours and Bike Availability: RIDER agrees and acknowledges that the Bikes are available seasonally, 7 days/week. Bikes must be rented within the maximum rental time limits set forth in 2.6 below. Bikes are limited and Bike availability at any station is never guaranteed.

2.6 MAXIMUM RENTAL TIME AND CHARGES: THERE ARE NO FREE RIDES. Maximum rental time is 24 hours. RIDER agrees that RIDER will return the Bike to a designated City of Lincoln Bike Station within 24 hours of time that rental of the Bike began. RIDER may then rent again. RIDER agrees that he/she is solely responsible for being aware of any elapsed time related to the timely return. Bike Rental Charges are \$6 for the first hour(60 minutes) and \$6 each hour(60 minutes) thereafter. The maximum day charge is \$144 and is based on a calendar day. Upon return of the bicycle, the rider will be charged the accumulated rental charges, or the maximum day charge; whichever is less. Bikes not returned within 72 hours will be considered stolen, and if RIDER has not communicated with the CITY about the missing Bike nor made a good faith effort to recover the same, RIDER will be charged the full cost of a replacement Bike (\$1600.00 for a Classic Bike or \$2,500.00 for an eBike). The applicable local and state sales tax will be included in Rental and Replacement Charges

2.7 REFUND POLICY: Any users with concerns or questions about the above billing should call Heartland Bike Share at 402-807-2005. THERE ARE NO FREE RIDES. For valid charges such as access fees and accrued fees, partial refunds may be given at discretion of the CITY with additional leniency given to first time users. For incorrect charges due to user error full refunds may be given based at the discretion of the CITY. For incorrect charges due to system errors full refunds will be given to the RIDER.

2.8 Bike may be used and/or operated only within the City of Lincoln: RIDER agrees to only use, operate and/or ride the Bike within the corporate limits of the City of Lincoln. RIDER will not, under any circumstances, remove the Bike from the City of Lincoln, Nebraska.

2.9 RIDER must follow rules of use and/or operation of Bike: RIDER agrees to follow all laws

pertaining to the use, riding and/or operation of the Bike, including all state and local laws and the rules and regulations pertaining to bicycles in the City of Lincoln.

2.10 Bike is intended for only limited types of use: RIDER agrees that he/she will not use the Bike for racing, mountain bike riding, stunt or trick riding. RIDER agrees that he/she will not operate and/or use the Bike on unpaved roads, through water, or in any location that is prohibited, illegal and/or a nuisance to others. RIDER agrees that he/she will not use the Bike for hire or reward, nor use it in violation of any law, ordinance or regulation.

2.11 RIDER's use of front carrier/basket is limited: RIDER acknowledges that the front carrier/basket of the Bike is intended for light goods only, and that he/she will not carry people or animals anywhere on the bicycle.

2.12 RIDER must report any accident, stolen or lost Bike and/or City of Lincoln Bike Share Membership Card: RIDER agrees that he/she must immediately report any accident involving a City of Lincoln Bike. Further, RIDER shall immediately report any damaged, stolen, or lost Bike to the City of Lincoln and, where necessary, to the Lincoln Police Department. Stolen or lost membership cards will be reported to CITY. RIDER agrees that he/she is responsible and liable for any misuse, consequences, claims, demands, causes of action, losses, liabilities, damages, injuries, costs and expenses, penalties, attorney's fees, judgments, suits or disbursements of any kind or nature whatsoever related to a stolen or lost Bike and/or City of Lincoln Bike Share Membership Card.

2.13 RIDER responsibility related to Bike use and damage: RIDER agrees to return the BIKE to the CITY in the same condition as it was received, ordinary wear and tear expected. RIDER agrees to ensure that the Bike is always locked and secured when unattended. Bikes may be equipped with wire locks; however, CITY will not be responsible under any circumstances for any lost, stolen, destroyed, and/or damaged Bike that becomes lost, stolen, destroyed, and/or damaged during the period it is rented by the RIDER, regardless of whether Bike locks are used or not properly functioning. RIDER agrees to pay for destruction or loss of Bike and for any damage, including replacement parts, that occurs during the period of time when it is rented by RIDER. (RIDER agrees to pay for any loss even though damage was caused by someone else). All repairs needed as a result of any damage, will be performed at the normal labor rates. In the event the Bike is lost or damaged beyond repair, regardless of fault or cause, RIDER agrees to pay CITY the full replacement value of the equipment.

2.15 RIDER grants to CITY and its legal representatives and assigns, the unrestricted right to use and publish photographs of the RIDER, or in which RIDER may be included, for editorial, trade, advertising, and any other purpose and in any manner and medium; and to alter and composite the same without restriction and without inspection or approval. RIDER hereby release Photographer and his/her legal representatives and assigns from all claims and liability relating to said photographs.

### 3. WAIVER AND/OR LIMITATION OF LIABILITY

3.1 For and in consideration of rental and use of the Bike, RIDER or in the case of RIDERS ages 12 to 18 his/her parent or legal guardian on behalf of said parent and the RIDER, forever releases, indemnifies, covenants not to sue, defends, and hold forever harmless the City of Lincoln, Nebraska, B-cycle, LLC, all City of Lincoln Bike Share Sponsors, and Heartland Bike Share as well as owners of property upon or near which stations are located ("Released Parties") from any and all claims, damages, losses, expenses, and any liability, cause(s) of action and/or damage or wrongful death, injury to others and/or third parties, which arise out of, result from or relate to this Agreement; the rental, maintenance, design, use and/or operation of the Bike; the City of Lincoln Bike Share program and/or its website, including any and all claims, liability, cause(s) of action and/or damages related to the sole or partial negligence of Released Parties and/or the negligence of others. By this agreement any such claims, rights, and causes of action that RIDER (and RIDER'S legal guardian(s), if applicable) may have are hereby waived, released and relinquished, and RIDER (and guardian(s), if applicable) does(do) so on behalf of RIDER'S heirs, executors, administrators and assigns.

3.2 RIDER expressly agrees to indemnify, release and hold harmless Released Parties from all liability for any such property loss or damage, personal injury or loss of life, whether caused by the sole or partial negligence of CITY and/or the negligence of others, whether based upon breach of contract, breach of warranty, active or passive negligence or any other legal theory, in consideration for using and/or operating the Bike.

3.3 RIDER (and his/her legal guardian(s) if applicable) voluntarily agrees, understands and recognizes that RIDER will have no right to make a claim or file a lawsuit against Released Parties arising out of this Agreement, the rental, maintenance, design, use and/or operation of the Bike, the City of Lincoln Bike Share program, and/or this website, in consideration for using and/or operating the Bike.

3.4 RIDER is familiar with and acknowledges that operation of the Bike carries with it certain risks and dangers including, but not limited to, property damage, bodily injury, and even death. RIDER (and his/her legal guardian(s) if applicable) agrees to assume and accept the risks associated with operation of the Bike without limitation, or in the alternative waives all rights to notice of risks associated with this activity and any activities connected or associated with this activity including any loss or damage to clothing and/or personal equipment; any mental and/or physical injuries, including illness, permanent and/or partial disability; severe social and/or economic loss; attorney's fees; and/or any other damages or loss which may result not only from his or her actions, inactions or negligence, but the actions, inactions or negligence of others, or in the condition of the premises or of any equipment used. RIDER further acknowledges that the City of Lincoln is not providing a helmet for RIDER to use during operation of the Bike, and agrees to assume the risk of operating the Bike without such a helmet unless RIDER provides his/her own helmet while operating the Bike. RIDER further recognizes that the likelihood of injury may be reduced by adhering to safety rules and procedures and RIDER agrees to adhere to any instructions and safety guidelines closely. .

3.4 This agreement is governed by the applicable laws of the State of Nebraska. If any provision of this agreement is found to be unenforceable, all other provisions will be given full force and effect.

4. ACCEPTANCE of AGREEMENT and TERMS and Conditions by RIDER: RIDER expressly acknowledges that he/she has carefully read the entire Agreement, including the Terms and Conditions, and understands this Agreement, including, but not limited to, the Waiver and Liability, Assumption of Risk and Indemnification Provisions fully and expressly agrees to be bound by this Agreement. RIDER (and his/her legal guardian(s) if applicable) hereby represent unqualified authority to execute this Agreement on his or her own behalf and/or on behalf of the RIDER. After careful deliberation, RIDER (and his/her legal guardian(s) if applicable) voluntarily gives his/her consent and expressly agrees to all the conditions included in this Agreement as set forth above.