

BIKE SHARE USER AGREEMENT

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) RIDER, the person agreeing to use the bike (“Bike”), and (b) Colby College (“OPERATOR”).

WARNING: By entering into this Agreement, RIDER is permitted certain limited use of bikes provided by OPERATOR, but, in consideration of the rental and use of the Bike, RIDER ACCEPTS certain risks and responsibilities.

2. GENERAL USE OF BIKE: AGREEMENTS AND RESTRICTIONS

2.1 Limit of parties: OPERATOR and the RIDER are the only parties to this Agreement. OPERATOR expressly agrees to let, and the RIDER expressly agrees to take on, use of the bike subject to the terms and conditions set out herein. The RIDER is the sole lessee and is solely responsible for compliance with all terms and conditions contained herein.

2.2 RIDER is a competent bike operator: RIDER represents and certifies that he/she is physically fit to ride the Bike, and possesses the balance, coordination and mental competency necessary to operate the Bike. RIDER further represents that he/she is familiar with the operation and controls of the Bike.

2.3 Bike is exclusive property of OPERATOR: RIDER agrees that the Bike and any equipment attached thereto, at all times, remains the exclusive property of OPERATOR. RIDER will not make any type of modification to the Bike at any time. The serial number is located on the Bike frame.

2.4 Bike Operating Hours and Bike Availability: Bikes must be returned within the time limit allowed by the program. Bikes are limited and Bike Stations may not have available Bikes at all times.

2.5 Bike may be used and/or operated only in designated area: RIDER agrees to only ride the Bike within normal riding distance from a bike station. RIDER will not, under any circumstances, ride a distance from bike station beyond RIDER’s ability to return.

2.6 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 traffic and riding laws and the rules and regulations pertaining to bicycles in designated areas. RIDER certifies that he/she is familiar with the laws, rules, and regulations pertaining to the use, riding and/or operating of the Bike in designated area and for the intended conditions and terrain before using the Bike. RIDER acknowledges and understands that OPERATOR does not provide training regarding the use or operation of the Bike.

2.7 RIDER acknowledges that helmets are provided by OPERATOR and are strongly recommended as protective gear. RIDER agrees that, for and in consideration of use of the Bike, OPERATOR, its officers, agencies, departments, agents, and employees shall not be responsible or liable for damages for any physical injuries sustained by RIDER as a result of RIDERS failure to wear a helmet or to wear a properly fitted or fastened helmet.

2.8 RIDER must inspect Bike before use, riding and/or operating of Bike. RIDER agrees to ensure that the Bike is in proper working order BEFORE using the Bike. RIDER agrees to examine and test the Bike’s operating parts including but not limited to the steering apparatus, brakes, tires, chain, and pedals, before using/or operating the Bike. This is not intended to be an exhaustive list. RIDER agrees to adjust bike seat to fit physique. RIDER agrees, before using and/or operating the Bike, to contact and notify OPERATOR of any and all repairs that the Bike may need. If inspection and initial testing of the Bike indicates any defect, damage or failure to operate as a normal Bike, RIDER shall not use and/or operate the Bike.

2.9 RIDER must not use, ride and/or operate Bike if impaired: RIDER agrees that he/she will not, under and circumstances, use, ride and/or operate the Bike if he/she has consumed, ingested and/or used alcohol or drugs and/or has a blood alcohol concentration about the jurisdictional limit prescribed.

2.10 RIDER must not use, ride and/or operate Bike in inclement or dangerous weather. RIDER agrees that he/she will not, under any circumstance, use, ride, and/or operate the Bike in inclement or dangerous weather, including but not limited to severe lightening storms, tornados, hurricanes, icy conditions, fog, and /or heavy rain, hail or snowfall.

2.11 Bike is intended for only limited types of use: RIDER agrees to always ride in control and within their own limits. 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, or in areas/conditions unintended for Bike. 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. Any damage or repairs required to Bike as a result of this type of use will be charged to RIDER, up to the cost of a full replacement of Bike.

2.12 Bike must not be used by or with others: RIDER agrees that he/she will not carry and/or transport any person or passengers on the Bike under any circumstances. RIDER shall not add any kind of seat or modification to allow someone to ride on any part of the Bike. RIDER agrees that he/she will not allow any person, other than RIDER, to use, ride and/or operate the Bike, which is the property of OPERATOR, in any way whatsoever, whether free of charge or for consideration.

2.13 RIDER's use of basket is limited: RIDER acknowledges that the basket of the Bike is intended to carry light goods only. RIDER agrees that he/she will not fill the basket with items weighing more than twenty (20) pounds, or less depending on RIDER's weight and/or riding ability, as this may create an unsafe condition and affect RIDER's balance and steering control.

2.14 RIDER must not push or pull objects with the Bike: RIDER agrees that he/she will not pull or push anything with the Bike as this may create an unsafe condition and lead to steering defects, misalignment of the frame or cause undue "wear and tear" to components.

2.15 RIDER must return Bike to Bike Station of origin. RIDER will be responsible for any costs for recovery and return of Bikes left at locations other than Bike Station of origin.

2.16 RIDER must report stolen or lost Bike: RIDER agrees that he/she must immediately report to OPERATOR a stolen or lost Bike.

2.17 RIDER responsibility related to Bike use and damage: RIDER agrees to return the Bike to OPERATOR in the same condition 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 locks, however, OPERATOR will not be responsible for any lost, stolen, destroyed, and/or damaged Bikes under any circumstances, regardless of whether Bike locks were used, broken and/or not properly functioning. RIDER agrees to pay for any damage, including replacement parts, to and/or destruction or loss of the Bike. (RIDER agrees to pay for any loss even though damage was caused by someone else.) All repairs needed as a result of any such loss, destruction or damage, will be performed at the normal labor rates. In the event the Bike is lost, destroyed or damaged beyond repair, regardless of fault or cause, RIDER agrees to pay OPERATOR the full replacement value of the equipment.

2.18 RIDER agrees to conditions regarding payment for unreturned, damaged, lost or stolen Bike: If RIDER fails to return Bike within permitted time of use, OPERATOR reserves the rights to cancel RIDER's use of the system, to charge a penalty if the Bike is not returned within 24 hours, or to charge the RIDER a fee for the purchase of the full replacement cost of the Bike if the Bike is not returned within 48 hours.

2.19 RIDER responsibility for all reasonable care of Bike while in RIDER's possession. If RIDER fails to properly secure Bike while in their possession, beginning from the time they checkout the Bike until the time that they complete the return process, OPERATOR reserves the rights to cancel RIDER's use of the system and to charge the RIDER a fee for the purchase of the full replacement cost of the Bike if the Bike is not returned within 48 hours.

2.20 RIDER responsibility for fines, fees, tickets: RIDER agrees that he/she is solely responsible and will not hold OPERATOR and/or OPERATOR parties liable for any moving violation, fines, and/or illegal activities incurred by RIDER while using, riding and/or operating the Bike. RIDER agrees to pay OPERATOR on demand all fines, and court costs, including administrative fees for parking, bus lane, traffic or other legal and moving violations assessed against the bike, the RIDER or OPERATOR during the rental or use of the Bike by RIDER. RIDER agrees to pay OPERATOR for any costs, expenses and/or attorney's fees for processing, pursuing and/or defending any such claims.

2.22 RIDER agrees to report any accidents and/or incidents: RIDER agrees that in the event of an accident and/or incident, RIDER will report facts to OPERATOR in writing using the contact information from the bike share program website. This shall occur no later than one (1) day of any such incident and/or accident.

2.23 No insurance provided to RIDER under this Agreement: RIDER acknowledges and understands that OPERATOR does not provide any personal insurance to RIDER to cover property damage, personal injury, injury to others, damages, expenses, penalties, losses, costs, or any type of payment or coverage of any kind or nature whatsoever.

3. ACCEPTANCE OF RESPONSIBILITY AND ASSUMPTION OF RISKS

3.1 RIDER expressly acknowledges and accepts that Bikes are provided "AS IS". RIDER agrees to ride at his/her own Risk, and agrees to inspect Bike prior to each ride. By checking out Bike, RIDER accepts the Bike for use, exercising his/her own free choice to participate voluntarily in this activity. RIDER promises to take due care during such participation, use and/or operation of the Bike. RIDER understands that bicycling is a hazardous activity. RIDER acknowledges, understands and assumes all risks relating to the maintenance, design, use and/or the operation of the Bike and understands that bicycling involves risks to the RIDER and others including bodily injury, partial or total disability, paralysis and death, and damages which may arise there from and that RIDER has full knowledge of said risks and dangers. RIDER understands that bicycle protective gear such as helmets are provided and recommended. RIDER understands that such gear, even when used, does not eliminate the risk of injury in the event of an accident.

4.2 RIDER acknowledges that there may be risks and dangers not known to RIDER or not reasonably foreseeable at this time related to bicycling, maintenance, design, use and/or operation of the Bike, and RIDER assumes responsibility for any and all such risks and dangers. RIDER acknowledges and understands that risks and dangers related to the maintenance, design, use and/or operation of the Bike may be caused by the negligence of the RIDER or the negligence of others. RIDER assumes responsibility for all such risks and dangers.

5. NO WARRANTY

OPERATOR itself provides no warranties express or implied. There is no warranty of merchantability or fitness for a particular purpose, and the Bike and OPERATOR equipment are accepted "AS IS".

6. JURISDICTION: GOVERNING LAW FOR ANY PROCEEDINGS

RIDER expressly agrees that any proceeding, dispute, claim or controversy arising out of, resulting from and/or relating to this Agreement, the maintenance, design, use and/or operation of the Bike; the OPERATOR program; and/or this website, shall be construed in accordance with and governed in all respects by the laws of the State of Maine, without application or regard to choice of law provisions. RIDER expressly agrees to submit to the exclusive jurisdiction of the courts presiding in the State of Maine. OPERATOR may assign its right and duties under this Agreement to any party at any time without notice to RIDER.

7. TERMINATION OF AGREEMENT

OPERATOR may terminate this Agreement at any time, with or without cause, legal process, or notice to the RIDER. RIDER waives all claims, causes of actions, expenses, and/or damages connected and/or related to any such termination.

8. NO WAIVER

OPERATOR's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any part of this Agreement. No waiver by OPERATOR shall be construed as a waiver of any proceeding or succeeding breach of any provision in this Agreement.

9. SEVERABILITY

Each provision of this Agreement, including an exclusions or limitations of liability, shall be construed separately, applying and surviving even if for any reason any provision in this Agreement is held to be inapplicable or unenforceable under any circumstance.

10. ENTIRE AGREEMENT: COMPLETE AGREEMENT; CHANGES TO THE TERMS AND CONDITIONS.

This Agreement constitutes the final and entire Agreement between OPERATOR and RIDER. This Agreement represents the entire understanding between OPERATOR and RIDER and prevails over any prior or contemporaneous, conflicting or additional, communications, unless OPERATOR revises or modifies this Agreement. OPERATOR shall have the right to revise, change, and modify the terms and conditions contained in this Agreement at any time without prior written notification by posting the revised Agreement on the Site. RIDER shall be solely responsible for reviewing and becoming familiar with any modification to this Agreement. Use and/or operation of the Bike by RIDER following any modifications to this Agreement constitutes RIDER's acceptance of the Terms and Conditions as modified.

11. ACCEPTANCE OF AGREEMENT AND TERMS AND CONDITIONS OF RIDER

RIDER expressly acknowledges that he/she has carefully read the entire Agreement, including the Terms and Conditions, and understands this Agreement, fully and expressly agrees to be bound by this Agreement. After careful deliberation, RIDER voluntarily gives his/hers consent and expressly agrees to all the conditions included in this Agreement as set forth above.

BY CHECKING THE BOX, RIDER AGREES THAT RIDER HAS READ, UNDERSTANDS AND EXPRESSLY AGREES TO THE ABOVE AGREEMENT AND TERMS AND CONDITIONS.

I have read, understand and accept the terms and conditions as detailed above.

Signed

Date

Printed Name

If RIDER is under age 18, signature of parent/guardian below:

Signed

Date

Printed Name