

Heartland B-cycle User Bike Sharing 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 lease and use a non-pedal assisted bike ("Classic Bike") and/or an electric pedal-assist bike ("eBike") (collectively ("Bike"), and (b) HEARTLAND BIKE SHARE ("HBS").

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

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

2.2 RIDER is 12 years of age or older to operate a Classic Bike. RIDER is 16 years of age or older to operate an eBike

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.

2.4 Bike is exclusive property of HBS: RIDER agrees that the Bike and any equipment attached thereto, at all times, remains the exclusive property of HBS. 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 Heartland B-cycle Bike Station within 24 hours of time that rental of the Bike began. RIDER may then rent again. RIDER agrees that they are solely responsible for being aware of any elapsed time related to the timely return. Bike Rental Charges are \$0 for the first hour and \$5 each hour thereafter. The maximum day charge is \$75 and is based on a calendar day. Upon return of the Bike, 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 HBS 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 determination of whether RIDER is making a good faith effort to recover the Bike is solely within HBS's discretion. If RIDER attempts in good faith to locate the missing Bike, and the Bike is recovered, the following fee structure applies:

- If found 1 to 3 days after 72 hours of checkout: \$75.00 fee
- If found 3 to 7 days after 72 hours of checkout: \$100.00 fee
- If found beyond 7 days after 72 hours of checkout: \$125.00 fee

Regardless of RIDER's good faith efforts at recovery, any Bike missing for more than 15 calendar days will be classified as lost and the replacement Bike cost may be assessed against RIDER. All costs and fees are in addition to the parts & labor costs. Labor fee is \$25.00 per hour and will be charged for all time spent returning the recovered Bike to operational form. If Bike is found and deemed unsafe or beyond repair, the replacement fee will be assessed in addition to the others identified above. The applicable local and state sales tax of 7% 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 B-cycle at 402-957-2453. THERE ARE NO FREE RIDES. For valid charges such as access fees and accrued fees, partial refunds may be given at discretion of Heartland B-cycle 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 Heartland B-cycle. For incorrect charges due to system errors full refunds will be given to the user.

2.8 Bike may be used and/or operated only within 25 miles of the City of Omaha: RIDER agrees to only use, operate and/or ride the Bike within 25 miles of the City of Omaha. RIDER will not, under any circumstances, remove the Bike from the following counties in Nebraska: Douglas, Sarpy and the following counties in Iowa: Pottawattamie, Mills.

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 Omaha.

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 acknowledges that the cargo features of the Bike are intended for light goods only, and that they will not carry people or animals anywhere on the bicycle.

2.12 RIDER must report accident, stolen or lost Bike and/or Heartland B-cycle Membership Card: RIDER agrees that he/she must immediately report an accident, or a stolen or lost Bike to Heartland B-cycle and Police. Stolen or lost membership cards will be reported to Heartland B-cycle. 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 Heartland B-cycle Membership Card.

2.13 RIDER responsibility related to Bike use and damage: RIDER agrees to return the BIKE to Heartland B-cycle 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 wire locks; however, HBS will not be responsible for any lost, stolen, destroyed and/or damaged Bike under any circumstances, 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. (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 HBS the full replacement value of the equipment.

2.15 RIDER grants to HBS 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 specifically forever releases and relinquishes and discharges HBS, B-cycle, LLC, the City of Omaha, the City of Council Bluffs, the City of Papillion, all Heartland B-cycle Sponsors as well as owners of property upon or near which stations are located ("Released Parties") from any and all claims, 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 Heartland B-cycle 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 HBS 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 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 Heartland B-cycle program, and/or this website, in consideration for using and/or operating the Bike.

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. After careful deliberation, RIDER voluntarily gives his/her consent and expressly agrees to all the conditions included in this Agreement as set forth above.

In the event Heartland B-cycle cannot contact the Rider for the purpose of recovering equipment or payment of fees owed, Rider voluntarily gives consent to Omaha Public Library to share contact information in their library account.

Name: _____ Date: _____

Phone: _____ Address: _____

Email: _____

I am willing to be contacted about my bike share experience: YES NO

Signature: _____