

# Sunrise Cyclery Bike Rentals

## Bicycle Rental Agreement

### LESSEE'S ASSUMPTION OF RISK, RELEASE, INDEMNITY AND HOLD HARMLESS

Please read carefully before signing:

I, ("Lessee"), in consideration of the services of Company, their agents, owners, employees, and all other persons or entities acting in any capacity on their behalf of myself, my children, my parents, my heirs, assigns, personal representative and estate as follows:

1. I understand and acknowledge that bicycling is a hazardous activity and entails known and unanticipated risks which could result in physical or emotional injury, paralysis, death, or damage to myself, to property, or to third parties. I understand that such risks cannot be eliminated by Company without jeopardizing the essential qualities of this activity.

The risks include among other things: falling, collision with highway or roadway vehicles, striking obstructions or other person, unsafe speed of travel for conditions, equipment failure, and weather conditions including temperature exposure (hypothermia, sunstroke, sunburn, heat exhaustion and dehydration).

2. I agree and knowingly, intelligently and voluntarily agree to accept and assume all of the risks existing in this activity. My participation in this activity is purely voluntary, and I elect to participate in spite of the risks.

3. Lessee hereby agrees to defend, protect, indemnify and hold harmless Company from, all claims, actions, proceedings, costs, damages, and liabilities, including attorney's fees, arising out of, in any way connected with, or resulting from my participation in this activity or my use of the leased equipment, including without limitation the possession, use, operation, or return of the equipment, including any such claims which allege negligent acts or omissions on the part of Company.

4. Should Company or anyone acting on their behalf, be required to incur attorney's fees and costs to enforce this agreement, I agree to indemnify and hold them harmless for all such fees and costs.

5. I certify that I have adequate insurance to cover any injury or damage I may cause or suffer while participating, or else I agree to bear the costs of such injury or damage myself. I understand and agree that any insurance coverage I maintain, whether liability, casualty, personal or health, shall constitute the primary coverage in the event of any loss, injury, death or damage to person or property while using or operating Company equipment. I further certify that I have no medical or physical conditions which could interfere with my safety in this activity, or else I am willing to assume all liability, damages or costs that may be created, directly or indirectly, by any such condition.

LESSEE HEREBY KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY WAIVES THE RIGHT LESSEE, OR ITS AGENTS, MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT.

LESSEE HEREBY KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ASSUMES ALL RISK, RESPONSIBILITY AND LIABILITY FOR: (a) OPERATION AND POSSESSION OF THE RENTAL PROPERTY; (b) ANY BODILY INJURY OR DEATH TO ANY PERSON, OR PROPERTY DAMAGE TO ANY PROPERTY, DUE TO LESSEE'S OPERATION OR POSSESSION OF THE RENTAL PROPERTY; AND (C) ANY NEGLIGENCE OF Company, ITS AGENTS, EMPLOYEES, OFFICERS, PARTNERS, PARENT COMPANY, SUCCESSORS AND/OR ASSIGNS.

I, the undersigned Lessee, by my signature below, hereby represent, warrant, and affirm that: (a) I am mentally competent to enter into this Agreement; (b) I have carefully read this Agreement and fully understand all terms, conditions, and provisions herein; (c) I understand that I am legally bound by this Agreement; and (d) I am assuming all liability for possession and operation of the rental property and I assume all such risk and liability voluntarily, intelligently, and knowingly.

1. I, ("Lessee") by my signature below, agree to be bound by all the following provisions relating to the use of Company equipment ("bicycle").

2. Authorized Drivers/Prohibition on Passengers

A. No other person may drive or otherwise operate Bicycle except the Lessee.

B. Lessee is prohibited from carrying any passengers on the Bicycle at any time. Lessee may not add any kind of seat or modification to allow someone to ride on the rear fender, and no one may ride on the handlebars at any time.

C. Lessee is prohibited from pulling or towing any passenger or object with the Bicycle at any time.

3. Bicycle Return

Lessee agrees to return the Bicycle to Company in the same condition as received, except for ordinary wear and tear (which does not include flat tires), on the due date and time and at the location specified by Company at time of rental. Lessee agrees to return the Bicycle sooner if so demanded by Company. Lessee understands that there may be rate or special charges if Lessee returns the Bicycle at a different time, date, or location than indicated in this Agreement.

4. Repossessing the Bicycle

Company may repossess the Bicycle at anytime if: (1) the Bicycle is used in violation of law; (2) it appears the Bicycle is abandoned, (3) the Bicycle is used in violation of any term or condition in this Agreement, (4) Lessee made a misrepresentation Company, or (5) Lessee fails to return the Bicycle when due. Company is not required to notify Lessee in advance of repossession.

5. Prohibited Use of the Bicycle.

Lessee will not use or permit the Bicycle to be used for hire, to be operated in a test, or to be through water, or off a designated bicycle trail, or in public parks if specifically prohibited, or in any location that operation would be illegal or a nuisance to others. Lessee will not use or permit the Bicycle to be used for an illegal purpose, including the transportation of a controlled substance or contraband. Lessee shall not use cellular telephones or cameras while riding. A violation of this paragraph automatically terminates the rental and makes Lessee liable to Company for any penalties, fines, forfeitures, liens, recovery and storage costs, and any related legal expenses associated with a violation of this paragraph.

6. Damage to Bicycle

Lessee shall pay Company for all losses and/or damage to the Bicycle, regardless of fault (e.g. Lessee agrees to pay for the loss even though someone else caused the damage or is at fault). Lessee is also responsible for all theft or vandalism losses, even if Lessee is not at fault for making the theft or vandalism possible. If the Bicycle is damaged, Lessee agrees to pay the reasonable costs of repair and diminution in value, if any. If the Bicycle is damaged beyond reasonable repair (as determined by Company), Lessee shall be responsible for the retail fair market value less any salvage value if applicable. In addition to the above, Lessee shall also be responsible for the reasonable down time ("Loss of Use"), reasonable administrative fee as determined by Company or specified by law, plus any towing, pick-up and/or storage charges. In the event of theft, Lessee shall be responsible for paying Loss of Use at the daily rate for each 24 hours Lessee delays in paying the total loss. Lessee is also responsible for any loss if Lessee: (1) abuses the Bicycle or violates any prohibited use or operation as specified in this Agreement; (2) drives recklessly; (3) drives while under the influence of alcohol or a controlled substance; (4) fails to promptly report an accident to the police and Company; (5) fails to complete an accident report; (6) obtains the Bicycle through fraud or misrepresentation; or (7) uses the Bicycle for an illegal purpose. Lessee authorizes Company to collect from a responsible third party any applicable loss and/or damage. In the event Company obtains a recovery from a third party after Lessee has paid Company for all or part of any loss, Company will refund to Lessee any excess above the amount of the loss plus administrative fees and other incurred collection and costs and attorneys' fees.

7. Accidents

I understand and agree that any applicable insurance coverage I maintain, whether liability, personal or health, shall be deemed the primary coverage in the event of any loss, injury, death or damage to person or property while I use or operate Company equipment.

**A. Third Party Claims.** Company is not responsible if Lessee causes injury to another person or if Lessee damages another Bicycle, vehicle or personal property of another. Lessee agrees to protect, defend, indemnify, hold harmless Company and pay any claim, including attorneys' fees, brought by a third party arising out of Lessee's use of the Bicycle and for any liability associated with any personal accident/injury as a result of Lessee's use of the Bicycle.

**B. Lessee Assumes Risk of Injury.** Lessee knowingly, intelligently and voluntarily assumes all risks, including but not limited to death or serious bodily injury, which may result from the operation of the Bicycle. Lessee acknowledges all the risks of operating a Bicycle on streets, roads, bike paths, bike lanes, and in traffic, including but not limited to the risks of serious bodily injury or death from falling off the Bicycle, colliding with other Bicycles, motorcycles, motor vehicles or other objects, hitting potholes, or suffer sudden loss of control from flat tires due to unseen objects puncturing or damaging tires, or brakes

failing, and hazards relating to weather conditions. Despite knowing all associated risks, Lessee freely assumes all risks of personal injury and/or damage in the operation of this Bicycle and Lessee agrees to hold Company harmless from all claims of injury or damage.

#### **8. Payment**

Lessee agrees to pay upon demand:

A. All rates, charges, (including those applicable to miscellaneous services and equipment), plus applicable taxes, fees, and surcharges (if applicable), which may apply to the Bicycle rental.

B. Charges for loss and/or damage to the Bicycle in accordance with paragraph 6. Lessee understands that all charges are not final and are subject to audit. Lessee specifically agrees and authorizes Company to make any charges by the method of payment used by Lessee at time of reservation and/or rental, including Lessee's credit card if that form of payment is utilized.

#### **9. Credit Reserve and Payment**

Lessee understands that Lessee must deposit an amount (to be used against the final bill) equal to the estimated total charge for the bicycle rental at the rates indicated in this Agreement. Lessee authorizes Company to place any amount(s) due from Lessee as a result of the Bicycle rental on to Lessee's credit card, if that form of payment is utilized.

#### **10. Helmet and Bicycle Safety**

Lessee shall wear approved protective headgear at all times while using the equipment, and shall ensure that all passengers wear appropriately-sized and approved protective headgear at all times while using the equipment. Helmets are offered and recommended as part of this Rental Agreement. Lessee that declines to rent and wear helmets has done so at their own will and their own peril.

#### **11. General Provisions**

A. Lessee represents that the information contained in this Rental Agreement is true, accurate, and complete. In the event that any information is not true, accurate or complete in any respect, Lessee agrees that Company has the right to terminate this Agreement with or without notice.

B. Lessee agrees that Lessee will be responsible for any unauthorized repairs or modifications to the Bicycle. Lessee understands that Company will not reimburse Lessee for any authorized repairs without receipt(s).

C. Lessee understands that in no event shall Lessee be deemed to be an agent, servant, or employee of Company in any manner for any purpose whatsoever. Lessee agrees that Company does not waive any rights under this agreement except in writing signed by Company officer.

D. Lessee agrees to obey all New York City traffic laws and regulations while riding, as well as the traffic laws and regulations of any other local, state, or federal jurisdiction into which the Lessee takes the equipment.

1: I (We) have ridden a single or multi speed bicycle and know how to operate the type of bicycle rented. \_\_\_\_\_

2: In consideration of being allowed to ride the bicycle, and before riding or using the same, I (We) state and acknowledge that I am (We are) not intoxicated (includes any drugs or prescriptions) and do not have any physical disorder that would interfere with the safe operation of the bicycle at any time during the rental. \_\_\_\_\_

3: I (We) have been instructed on the use of Sunrise Schwinn Inc. Rental Equipment, Bicycles, and Helmets. \_\_\_\_\_

4: I (We) take total responsibility for (my -our) own safety and assume the risk of any injury that may result from the use of equipment rented from Sunrise Schwinn Inc. \_\_\_\_\_

5: I am (We are) responsible for the replacement of full retail value, of any equipment rented under this agreement that is not returned or is damaged during my/our use. \_\_\_\_\_

6: I (We) have inspected the rental equipment and are satisfied that it is in good working condition.

- a) Air Tire Pressure \_\_\_\_\_
- b) Front and Rear Reflectors \_\_\_\_\_
- c) Brakes and Gearing \_\_\_\_\_

I (We) accept the rental equipment as is and will be responsible for the care of same while in my/our possession. \_\_\_\_\_

7: I (We) agree to wear protective headgear at all times while using the rental equipment. \_\_\_\_\_

8: I am (We are) responsible for theft or damage to all privately owned equipment or personal property. \_\_\_\_\_

9: I (We) fully and completely RELEASE, ACQUIT and FOREVER DISCHARGE Sunrise Schwinn Inc., its owners, managers, staff or suppliers from any and all claims, demand and causes of action of any nature whatsoever, including without limitation, claims of negligence arising out of or relating to any injuries of any nature I (We) might sustain as a result of riding on, falling from, or being injured by the rental equipment. I (We) waive any rights to sue or assert any such claim against Sunrise Schwinn Inc. its owners, managers, staff or suppliers. ■

DATE \_\_\_\_\_ PRINT NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

EMAIL \_\_\_\_\_ PHONE \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF USER