RIDER’S RENTAL AGREEMENT

IMPORTANT: THIS AGREEMENT CONTAINS A FULL, GENERAL AND UNCONDITIONAL RELEASE OF CLAIMS AS WELL AS ASSUMPTION OF RISK AND INDEMNITY PROVISIONS

THIS IS A LEGAL AND BINDING AGREEMENT. RIDERS SHOULD READ ALL TERMS AND CONDITIONS OF THIS AGREEMENT BEFORE AGREEING TO ENTER INTO THIS AGREEMENT. BY ENTERING INTO THIS AGREEMENT, RIDER IS PERMITTED TO USE BIKES PROVIDED BY KENT STATE UNIVERSITY AS PART OF THE KENT STATE UNIVERSITY PROGRAM (TITLED “FLASHFLEET”) IN KENT, OH, WITH CERTAIN USE RESTRICTIONS AS A CONDITION FOR USE OF THE BIKE. ADDITIONALLY, RIDER RELEASES AND WAIVES CERTAIN RIGHTS AND CLAIMS, AS WELL AS ACCEPTING CERTAIN RESPONSIBILITIES.

THE KENT STATE UNIVERSITY PROGRAM IN KENT, OH, IS AN AUTOMATED PUBLIC BICYCLE SHARING AND RENTAL PROGRAM OPERATED BY KENT STATE UNIVERSITY (THE “PROGRAM”). IT DIFFERS FROM A TYPICAL PRIVATE BICYCLE RENTAL. TWO TYPES OF ACCESS TO THE AUTOMATED PROGRAM ARE OFFERED: MEMBERSHIPS OR RENTALS.

MEMBERSHIPS: FOR ALL TYPES OF PROGRAM MEMBERSHIPS, BIKES ARE REQUIRED TO BE DOCKED INTO OR SECURELY LOCKED AT APPROVED KENT STATE UNIVERSITY STATION LOCATIONS AT SPECIFIC TIME INTERVALS (TIME INTERVAL VARIES DEPENDING ON MEMBERSHIP TYPE) OR ADDITIONAL CHARGES/LATE FEES MAY APPLY PER THE POSTED RATES, WHICH IS TYPICAL OF PUBLIC BIKE SHARING PROGRAMS. DURING A CHECKOUT BY A MEMBER, RIDER MAY TEMPORARILY PARK THE BIKE USING THE ONBOARD AUTOMATED LOCKING SYSTEM AT ANY SECURE STRUCTURE OR BIKE RACK. DURING THE [PERIOD OF THE MEMBERSHIP] A BIKE IS NOT TO BE KEPT FOR LONGER THAN ONE DAY BY THE RIDER. A MAXIMUM DAILY RATE OF $20 PER DAY WILL APPLY FOR ANY BIKE NOT RETURNED WITHIN THE PRESCRIBED MEMBERSHIP USE PERIOD. IF RIDER FAILS TO RETURN BIKE WITHIN 25 HOURS OF THE EXPIRATION OF THEIR ORIGINAL MEMBERSHIP USE PERIOD, RIDER WILL BE CHARGED A FEE OF $1200. ALL MEMBERSHIPS HAVE A REGISTRATION AND CONFIRMATION PROCESS.

RENTALS: FOR ALL PROGRAM RENTALS ORIGINATING AT A PROGRAM STATION, THE RIDER MAY KEEP BIKE FOR THE ENTIRE TIME OF RENTAL WITHOUT THE NEED TO DOCK BIKE AT A PROGRAM STATION. RIDER MAY, AT ITS OPTION, (A) DOCK BIKE AT ANY KENT STATE UNIVERSITY STATION WHEN NOT IN USE AND RETRIEVE THE SAME OR ANOTHER BIKE, OR (B) TEMPORARILY PARK THE BIKE USING THE ONBOARD AUTOMATED LOCKING SYSTEM DURING THE INITIAL RENTAL PERIOD AT ANY SECURE STRUCTURE OR BIKE RACK WITHOUT INCURRING ADDITIONAL FEES. IF BIKE IS NOT RETURNED PRIOR TO THE END OF THE INITIAL RENTAL PERIOD, ADDITIONAL CHARGES/FEES MAY APPLY PER THE POSTED RATES. A MAXIMUM DAILY RENTAL RATE OF $20 PER DAY WILL APPLY FOR ANY BIKE NOT RETURNED IN THE PRESCRIBED RENTAL PERIOD. IF RIDER FAILS TO RETURN BIKE WITHIN 25 HOURS OF THE EXPIRATION OF THEIR ORIGINAL RENTAL TERM, RIDER WILL BE CHARGED A FEE OF $1200. ALL RENTALS HAVE A REGISTRATION AND CONFIRMATION PROCESS.

KENT STATE UNIVERSITY FROM TIME TO TIME, PARTICIPATES IN “SPECIAL EVENTS” AND MAY PROVIDES BIKES FOR USE ON A COMPLIMENTARY BASIS, OR FOR A FEE, WITHOUT USING AUTOMATED KENT STATE UNIVERSITY STATIONS TO CHECK BIKES IN AND OUT OF USE. WHETHER A RIDER PAYS FOR USE OF THE BIKE OR IT IS PROVIDED ON A COMPLIMENTARY BASIS, ALL TERMS AND CONDITIONS, RELEASE OF LIABILITY, ASSUMPTION OF RISK, AND
INDEMNITY TERMS OF THIS AGREEMENT STILL APPLY. IF BIKE IS NOT RETURNED PRIOR TO THE END OF THE INITIAL SPECIAL EVENT RENTAL PERIOD, ADDITIONAL CHARGES/FEES WILL APPLY AT THE RATE OF $4 PER EACH ADDITIONAL 30-MINUTE PERIOD UNTIL RETURNED, UP TO A MAXIMUM DAILY RENTAL RATE OF $20 PER DAY. IF RIDER FAILS TO RETURN BIKE WITHIN 25 HOURS OF THE EXPIRATION OF THEIR ORIGINAL SPECIAL EVENT RENTAL TERM, RIDER WILL BE CHARGED A FEE OF $1200.

1. PURPOSE OF AGREEMENT

This document constitutes the entire Agreement (“Agreement”) between the individual agreeing to be bound by the terms of this document (“Rider”) and entitled to use a bike or bikes (“the Bike”) pursuant thereto, and KENT STATE UNIVERSITY (“KSU”).

2. GENERAL RULES & RESTRICTIONS FOR BIKE AND SYSTEM USE

2.1 Age Restriction: Rider is and must be 18 years of age or older. Rider certifies and guarantees that he/she meets this requirement. If Rider falsifies or misrepresents, unintentionally or intentionally, Rider’s age, the Rider accepts full responsibility for any and all damages, demands, consequences, causes of action, losses, injuries, court and litigation costs, attorney’s fees, penalties, fines, legal actions of any kind, judgments, expenditures of any type or nature whatsoever related to such misrepresentations, whether intentional or unintentional and agrees that KSU and any of its affiliates, officers, directors, employees, agents, contractors and representatives shall have no liability whatsoever in respect of the above.

2.2 Helmet Warning: Failing to wear a helmet could result in serious bodily injury or death in the event of an accident or collision. As a preventive measure, KSU recommends that all Riders use a properly fitted helmet at all times when operating the Bike. It is the Rider’s sole responsibility to utilize a helmet. Rider agrees that in consideration of the use and rental of the Bike, KSU, Sponsor and their agents, directors, officers, shareholders, successors, assigns, subsidiaries, parent organizations and affiliates, shall not be liable or responsible for any damages or injuries caused by or relating to Rider failing to wear a properly fitted and/or fastened helmet.

2.3 Requirement to Inspect Bike Prior to Operating: Rider agrees to carefully inspect the Bike he/she wishes to ride prior to riding the Bike, and shall, while within 15 feet of the place of rental, test the Bike’s operating components including but not limited to: the chain, brakes, pedals, lights, tires, frame and seat. This is not intended to be an extensive or exhaustive list. Rider agrees not to operate any bike that Rider knows or ought reasonably to know is not operating properly. Rider agrees that if Rider notices or otherwise becomes aware bike is not operating properly prior to operating the Bike that he/she will notify KSU customer service of such defect or malfunction.

2.4 Requirement to Discontinue Use: Rider expressly agrees that Rider shall discontinue use of the Bike immediately and return it to a Program Station if it, or any component of it, should become defective or malfunction while Rider is riding the Bike or during any other use or operation of the Bike and Rider shall notify KSU customer service of any such defect or malfunction. KSU may, at its sole discretion, issue another Bike to Rider, pick up the Bike at issue, or provide any other related services.

2.5 Rider Experienced with Bicycle Operation: Rider represents and warrants that Rider is experienced and familiar with and capable of safely and competently operating a bicycle, and
further, that Rider is physically and mentally fit to ride a Bike. Rider is solely responsible for any injury or damages resulting from improper or unsafe or otherwise negligent operation of the Bike.

If Rider has any existing physical or mental condition that would prohibit Rider from safely operating a Bike, he/she is prohibited from riding a Bike. If Rider falsifies or misrepresents, unintentionally or intentionally, any matter referred to in this paragraph, Rider accepts full responsibility for any and all damages, demands, consequences, causes of action, losses, injuries, court and litigation costs, attorney’s fees, penalties, fines, legal actions of any kind, judgments, expenditures of any type or nature whatsoever related to such misrepresentations, whether intentional or unintentional and agrees that KSU and any of its affiliates, officers, directors, employees, agents, contractors and representatives shall have no liability whatsoever in respect of the above.

2.6 Rider Restricted from riding or operating the Bike in adverse weather conditions: Rider agrees that he/she will not ride, operate or use a Bike in any manner during adverse weather conditions, including but not limited to: tornados, hurricanes, fog, heavy rains, heavy winds or lightning storms. Rider assumes all risks and liabilities resulting from any and all use or attempted use of a Bike during adverse weather conditions. Operating a Bike during adverse weather conditions can cause death or serious bodily injury as well as endangering the safety of others.

2.7 Rider Restricted from using or operating a Bike while Impaired: Rider expressly agrees that Rider shall not ride or attempt to operate a Bike if he/she is under the influence of drugs or alcohol and/or impaired with an alcohol level above what is legally permissible under state or local laws for Bikes, where applicable, or otherwise for motor vehicles. Rider assumes all risks and liabilities resulting from any and all use or attempted use of a Bike while impaired. Operating a Bike while impaired or under the influence can cause death or serious bodily injury as well as endangering the safety of others.

2.8 Rider Required to Comply with all applicable local, state, and county rules, regulations, codes and laws that relate to the operation of a bicycle (“Applicable Laws”). Rider certifies he/she has familiarized himself/herself with Applicable Laws prior to riding or operating a Bike. Should Rider wish to further review such regulations, they can be obtained from the State of Florida, the Florida Bicycle Organization and on the internet.

2.9 Restrictions of Type of Use of Bike: Rider agrees not to use the Bike for racing, tricks riding, jumping, stunt riding and/or, off-road riding. Rider further agrees not to use the Bike for any commercial or hire purposes. Rider shall not operate the Bike on unpaved roads, through puddles or water, or in any other uses/places prohibited by law or that Rider knows or ought reasonably to know may expose Rider or others to risk of injury, death or other harm or expose Bike to risk of loss or damage. Rider agrees not to tow, pull, carry or push any person or object with Bike as such can create unsafe conditions. Rider agrees to be seated at all times while pedaling and shall not pedal the Bike while in a standing position. Pedaling the Bike from an upright, standing position may create a dangerous condition and increase Rider’s chance of an injury. Rider agrees to keep control of the handlebars at all times and shall not ride in a “hands free” manner.

2.10 Bike is and shall remain the exclusive property of KSU at all times. Rider shall not remove, add or modify any accessories, parts or components of the Bike as it is a criminal act to do so.

2.11 Rider shall not permit others to ride upon or use Bike: Rider is expressly prohibited from allowing any 3rd party to ride upon or use the Bike in any manner whatsoever, as the Bike is the exclusive property of KSU and only Rider is licensed to operate it. Rider is prohibited from allowing anyone else upon any part of the Bike at all times.

2.12 Restricted use of Front Basket: Rider agrees that he/she will not use the basket for any purpose other than carrying small and light items while riding the Bike. Rider acknowledges the basket is for light items only and that he/she should not overfill the basket with too many items or heavy items as it can cause an unsafe condition and may impair the balance, steering and/or stability of the Bike which can result in injury to Rider or injury or damage to other persons or third party property. KSU is not responsible for damage or loss to any items or property being transported, carried or left in the Bike basket and Rider is solely responsible for such items at all times.

2.13 Rider required to report accidents or incidences of theft, loss or serious damage to Police: Rider must contact KSU Customer Service and local Police immediately in the event of theft of the Bike or any accident occurring during Rider’s use of Bike resulting in bodily injury or serious damage to
Bike. A police report should be obtained in any of these events and provided to KSU upon request within 5 business days of the incident as provided below and contain the facts surrounding the incident and contact information for witnesses and anyone else involved in the accident/incident.

2.14 Rider’s liability in the event of theft or loss of Bike: Rider shall be liable and responsible for any costs, claims, judgments, demands, damages, injuries, expenses, penalties, expenditures of any nature, causes of action, losses, attorney’s fees and court costs of any kind relating to a stolen, lost or damaged Bike. If Rider leaves Bike unlocked or unattended and it is stolen, Rider is expressly responsible for its replacement cost.

2.15 Rider Responsibility for Damage to Bike or Other Property: Rider expressly agrees to return the Bike to KSU in the same condition as when received. Rider is liable for any and all damages resulting from improper use or abuse of or negligence involving the Bike (“Rider Negligence”) and the cost of such damages shall become due and payable at standard labor and parts rates upon invoicing by KSU to Rider. If Bike is permanently damaged and must be removed from circulation as a consequence of Rider Negligence, Rider shall be responsible for furnishing KSU with the replacement cost of the Bike, due and payable upon invoicing by KSU to Rider. Email, express courier and USPS are all acceptable methods of delivery for such invoices from KSU. Should Rider cause damage to the property of another party while operating or in possession of the bike, Rider is solely liable for such damage.

2.16 Requirement to Secure Bike at All Times: Rider agrees to maintain the Bike in a secure manner at all times. Bikes should be returned to or stored at Program Stations. Bikes may or may not be equipped with onboard cable, chain or wire locks. Under any and all circumstances, KSU is not responsible for any lost, stolen, destroyed or damaged Bikes regardless of whether the onboard locks are utilized and/or properly functioning. Rider expressly agrees that he/she shall pay for any damages to the Bike caused by Rider or anyone else during Rider’s rental or use period of the Bike. Any required repairs will be performed and billed at normal labor rates and parts/materials costs. Should a Rider cause damage to a Bike such that it is no longer safe to operate, Rider agrees to pay KSU the full replacement value of the Bike ($1,200).

2.17 Requirement to acknowledge that No Insurance is Provided under this Agreement: Rider expressly acknowledges and agrees that KSU does not provide insurance of any kind covering the Rider including but not limited to: property damage, liability, personal injury, injury to others, damages, penalties, fines, losses, and/or expenses of any kind whatsoever.

2.18 Rider agrees to conditions regarding payment for unreturned, damaged, lost or stolen Bike: Rider agrees that if the Bike is damaged beyond repair, lost or stolen, KSU will be immediately authorized to charge the applicable fees under this Agreement to the credit and or debit card that Rider used to rent the Bike or pay his or her Membership fee. Alternatively, KSU may elect to issue an invoice to Rider for the appropriate amount, payable upon receipt. Rider shall be personally liable for the payment of the fee even if their credit or debit card lacks sufficient funds to cover the fee.

2.19 Rider participating in a Public Bicycle Sharing Program: Rider understands that he/she is participating in a public bicycle sharing program, and that unlike a standard private bicycle rental, Rider is required to check Bikes in and out of stations periodically so that such Bikes are available to the next user when accessing the program via a MEMBERSHIP. At the end of a RENTAL, or, in the case of a MEMBERSHIP, at the end of the applicable use period, Rider must return the Bike to a KSU Program Location and Rider may select any other available bike when ready to ride again. Rider is prohibited from keeping or possessing a specific Bike for an entire day or multiple days when accessing Bikes via a MEMBERSHIP. If Rider selects a Bike sharing program MEMBERSHIP Rider shall be permitted to ride an unlimited number of trips during such MEMBERSHIP period to get Rider from station to station. The permitted duration of each trip shall be limited in accordance with the type of MEMBERSHIP selected by Rider.

2.20 If Rider selects to access Bikes via a RENTAL, Rider shall promptly return such Bike to a KSU Program Location at the end of the rental period or he/she shall incur additional charges at the posted rate and as otherwise described herein.

2.21 Rider Responsibility for Acts of Destruction; Recovery of Costs; Prosecution: Rider is hereby advised that any willful or negligent act of destruction of the Bike and/or any other KSU property
will result in prosecution to the fullest extent of the law and KSU will seek the recovery of all losses, costs and administration charges from Rider, including attorney’s fees and costs.

2.22 Rider responsibility for Tickets, Fees and Fines: Rider agrees that he/she is solely responsible and will not hold KSU, Sponsor and/or any of its or their agents, directors, officers, shareholders, employees, successors, assigns, subsidiaries, parent organizations, and/or affiliates liable for any moving violation, fines, and/or other penalties for illegal activities incurred by Rider while using, riding and/or operating the Bike. Rider agrees to pay on demand all fines, and court costs, including administrative fees for parking, bus lane, traffic or other legal and/or moving violations assessed against the Bike, the Rider or KSU or Sponsor during the rental or use of the Bike by Rider. Rider agrees to pay KSU or Sponsor for any costs, expenses and/or attorney’s fees for processing, pursuing and/or defending any such claims.

2.23 Failed Membership Account Billing: Riders choosing to access Bikes via a MEMBERSHIP are responsible for timely payment of MEMBERSHIP fees and/or any additional usage fees on the prescribed due date. It is Rider’s responsibility to maintain updated and accurate (a) billing information and (b) method of payment in their MEMBERSHIP account online. Should a Rider’s payment method on file be declined for any reason, a $5.00 reinstatement fee will be charged to Rider’s MEMBERSHIP account balance and a temporary hold will be placed on the Rider’s membership card disabling Rider’s access to Bikes until Rider’s payment is successfully processed.

2.24 Police Authorized to Stop Any Person Riding or in Possession of the Bike(s): Rider agrees that county, city and state Police may stop any person riding or possessing a Bike at their request for safety and/or security purposes. This may include any Bike that appears damaged, altered, is missing any components or its Bike identification number(s), and/or has been checked out longer than the Bike’s last corresponding rental/membership use period. Police may ask Rider to present any of the following forms of identification to ensure the Rider or person in possession of the Bike(s) is authorized to have, or be using, the Bike(s): (a) Membership card if Rider is a membership subscriber, (b) the credit or debit card used to rent the Bike if Rider is not a membership subscriber, (c) a form of government issued identification such as a driver’s license or state issued ID card, and/or (d) display Rider’s MEMBERSHIP account using the program’s mobile application.

2.25 Application and Registration for MEMBERSHIPS. Riders may apply and register for a MEMBERSHIP via telephone, mobile app, at a rental terminal (where available) or with a cooperating local partner. Following the provision of all relevant personal data, KSU has the right to accept or refuse the application. As part of the approval process, KSU is authorized to check the available credit on credit or debit cards provided by Rider for registration and payments. Upon successful registration, the applicant shall receive a personal identification number (PIN). This PIN allows for, among other things, logging into the Rider’s account at http://www.kent.edu/recservices/flashfleet. Approval of the application occurs when KSU notifies the Rider of activation of his/her account. This notification may be given orally, in written form, by telephone, via email, SMS, mobile app or at a kiosk terminal. Following successful registration as a customer, Rider may be able to use any cooperating programs worldwide using a compatible membership and rental system. This includes most nextbike locations which may be viewed at www.nextbikeinc.com. Rates vary according to location. The registration process is free of charge for Riders, however, a valid means of payment must be provided before Bikes can be used. KSU is authorized to charge periodic fees in accordance with the chosen MEMBERSHIP type. Rider shall update any changes to their personal information immediately, including billing and general account information. KSU may send additional information other than that which is necessary for use of Bikes (bike no., lock code, etc.). This may include, but is not limited to, marketing materials from sponsors and partners.

2.26 Beginning and End of a RENTAL I. The chargeable rental of a Bike begins when the bike is first checked out by Rider and continues until the Bike is returned at a KSU Program Location and the prescribed rental period has expired. Rider will receive confirmation by phone or on the display of the rental terminal indicating the end of the RENTAL.

2.27 Proper Location(s) for Return of Bikes. Riders must return Bikes to official KSU Program Locations or additional fees will be charged at posted rates and as otherwise described herein. Where a Bike is not returned to an official KSU Program Location, but KSU is able to recover the
Bike in good condition, KSU will charge a fee to the credit and or debit card used by Rider to pay for the RENTAL or to pay his or her MEMBERSHIP fee for the greater of either (a) $50 or (b) KSU’s costs in recovering the bike.

2.28 Private PIN and Passwords. Rider is responsible for preventing the unauthorized use of their personal data by 3rd parties such as PIN numbers or passwords. Rider may change these at any time and as often as desired. Should Rider have reason to believe this information has been compromised or misused, Rider shall notify KSU immediately. Riders may deactivate their user account at any time online or by calling the customer service hotline.

2.29 MEMBERSHIP Personal to Rider. Rider expressly agrees that any MEMBERSHIP is personal to Rider and that Rider shall not share with or permit use of his or her MEMBERSHIP card by any third party. Where KSU discovers Rider has permitted use by a third party of his or her membership card KSU may immediately terminate Rider’s MEMBERSHIP without liability to Rider for any MEMBERSHIP fee paid or payable and without any other liability.

2.30 Account Blocking. KSU may block Rider’s access to Bikes at its sole discretion. This may be related to misuse, safety, security issues, use of Rider’s MEMBERSHIP card by third parties or other issues.

2.31 Objections to Charges. Debiting of the Rider’s account or credit or debit card occurs automatically. KSU does reserve the right, however, to demand payment by customers either by telephone or in written form. Objections to debited charges must be submitted in writing to KSU within one week of such charge’s posting date. Any refunds issued will be credited to the Rider’s credit or debit card or, in the case of a MEMBERSHIP, credited to Rider’s account used to offset the next due payment unless other instructions are received from the Rider.

2.32 Past Due Balances. Past due balances or open invoices will be assessed interest at the highest rate permissible by law.

2.33 System Operating Hours and Availability: Rider agrees to comply with the posted hours of System availability. Bikes are limited and Stations may not have available Bikes for rental at all times. To check the availability of Bikes, please refer to the Station locations and Bike availability on http://www.kent.edu/recservices/flashfleet.

2.34 System Region: A Bike may be used and/or operated only in the City of Kent Ohio, and in directly adjoining cities to Kent OH, and Portage County, Ohio and directly adjoining counties to Portage County, Ohio. Rider agrees to use, operate and/or ride the Bike only in these aforementioned cities and counties, and will not, under any circumstances, remove the Bike from these locations.

2.35 Multiple Bike Rentals: Rider can rent up to one Bike at the same time on one account, if available. In such cases, Rider acknowledges and agrees that (a) he/she shall be responsible for each Bike rented under his/her account, and shall be deemed to be the “Rider” under this Agreement with respect to each such rented Bike, regardless of whether another individual operates the Bike; (b) Rider will be responsible for ensuring that any individual operating a Bike rented under Rider’s account shall read and comply with this Agreement (including without limitation the age restrictions set forth in Section 2.1); and (c) Rider is fully and completely responsible and liable for all Claims arising from or related to another individual’s use of a Bike rented under Rider’s account.

3. WAIVER, RELEASE AND LIMITATION OF LIABILITY

3.1 In consideration for the use of a Bike or Bikes and any other benefits described in this Agreement, Rider on behalf of itself and those claiming by, through or under Rider, and
any person or entity that uses a Bike procured by Rider (each, a “Rider Related Person”), hereby releases and forever discharges KSU, its Board of Trustees, employees, agents, and volunteers (the “Released Parties”), from any and all claims, demands, proceedings, suits, manner of obligation, debt, liability, tort, covenant, contract, or causes of action of any kind whatsoever, at law or in equity, known or unknown, suspected or unsuspected, matured or unmatured, contingent or vested, liquidated or unliquidated, of any kind or nature or description whatsoever including without limitation any and all claims, liability, causes of action and/or damages related to the sole or partial negligence of any non-related third party, that the Rider or any of the Rider Related Persons may have, or claim or assert to have, whether now or in the future that directly or indirectly relate to this Agreement; the rental, use and/or operation of any Bike or Bikes by Rider or any of the Rider Related Persons (collectively, “Claims”). Rider and each Rider Related Person also hereby agrees and covenants not to sue any Released Party for or on account of any Claims. Rider acknowledges that it has been advised to consult with legal counsel and that this release covers both claims that Rider or any Rider Related Person(s) knows about and those it does not know about. Rider and any Rider Related Person(s) understands the significance of its release of unknown claims and of its waiver of statutory protection against a release of unknown claims. Rider and any Rider Related Person(s) expressly waives all rights afforded by any applicable state statute which limits the effect of a release with respect to unknown claims. Rider and Rider Related Person(s) agrees to expressly waive any rights it may have thereunder, as well as under any other statute or common law principles of similar effect.

4. ASSUMPTION OF RISKS AND ACCEPTANCE OF RESPONSIBILITY

4.1 Rider expressly acknowledges and accepts that Rider rides at his/her own Risk. Rider accepts the Bike for use, exercising his/her own free choice to participate voluntarily in this activity. Rider promises and agrees to take due care during such rental, use, participation and/or operation of the Bike. Rider understands that bicycling may be a hazardous activity. Rider acknowledges, understands and assumes all risk relating to the rental, maintenance, design, use and/or operation of the Bike and understands that bicycling involves risk to the Rider and others including bodily injury, partial or total disability, paralysis and death, and damages which may arise therefrom and that Rider has full knowledge of said risks and dangers. Rider understands that bicycling protective gear such as helmets and gloves are not provided but are recommended. Rider expressly 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, rental, 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 rental, maintenance, design, use and/or operation of the Bike may be caused by the negligence of the Riders or others including KSU and KSU’s contractors and affiliates. Rider assumes responsibility for all such risks and dangers.
4.3 Rider freely and expressly assumes and accepts any risks and all injuries to the Rider, Rider’s personal property, and any others injured or damaged as a result of the rental, maintenance, design, use and/or operation of the Bike. Rider acknowledges, understands and agrees that all of the risk and dangers related to the rental, maintenance, design use and/or operation of the Bike, including those caused by the negligence of others, are included within the waiver, release and relinquishment of liability contained in this Agreement.

5. NO WARRANTY

KSU does not provides any warranties, express or implied. There is no warranty of merchantability or fitness for a particular purpose, and the Bike and KSU equipment is accepted “As Is”.

6. SERVICE INTERRUPTIONS

KSU shall not be liable for, or owe a refund to, Rider for any interruptions in service caused by or reasonably attributed to public unrest, emergencies, labor strikes, adverse weather conditions, criminal acts of others and acts of god, as well as mechanical/technical failures of internet, cellular and data hosts/service providers, both wired and/or wireless. Further, KSU does not guarantee the availability of Bikes at any particular Program Location at any given time and shall not be liable for, or owe a refund to Rider for the unavailability of a Bike or Bikes at any given Program Location at any given time. Rider expressly acknowledged that the Program is a Bike sharing system and that, as such, availability of Bikes to Rider is not guaranteed.

8. INDEMNIFICATION

In consideration for the use of the Bike, Rider and any Rider Related Person expressly agrees to indemnify and hold harmless KSU, its Board of Trustees, employees, agents, and volunteers (together the “Indemnified Parties”) against any and all claims, demands, causes of action, losses, liabilities, damages, injuries, costs and expenses, penalties, attorneys fees, judgments, suits, including claims brought by a third party, or disbursements of any kind of nature whatsoever related to, resulting from, regarding or referencing this Agreement, the rental, maintenance, design, and use and/or operation of the Bike, the Program and/or the Program website.

9. JURISDICTION & GOVERNING LAW
Rider expressly agrees that in the event of any proceeding, dispute, claim or controversy arising out of, resulting from and/or relating to this Agreement, the RENTAL, maintenance, design, use and/or operation of the Bike, the KSU program and/or the KSU website shall be construed in accordance with and governed in all respects by the laws of the State of Ohio. KSU may assign its rights and duties under this Agreement to any party at any time without notice to Rider.

10. NO WAIVER

KSU’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 KSU shall be construed as a waiver of any proceeding or succeeding breach of any provision in this Agreement.

11. TERMINATION OF AGREEMENT

KSU may terminate this Agreement at any time, 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. Customer may terminate their contract one month before the end of the contractual term in writing via email or other acceptable means.

12. SEVERABILITY

If any provision of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

13. ENTIRE AGREEMENT

This Agreement constitutes the final and entire Agreement between KSU and Rider. This Agreement represents the entire understanding between KSU and Rider and prevails over any prior or contemporaneous, conflicting or additional, communications, unless KSU revises or modifies this Agreement. KSU 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 KSU
website, program kiosks or mobile applications. Riders 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.

ACCEPTANCE OF AGREEMENT BY RIDER

Rider expressly acknowledges that he or she has carefully read the entire Agreement, including the terms and conditions, and understands this Agreement, including but not limited to the Waiver of Liability, Assumption of Risk, Full, General and Unconditional Release and Indemnification Provisions, fully, and expressly agrees to be bound by this Agreement. Rider voluntarily gives his or her consent and expressly agrees to all the conditions included in this Agreement as set forth above.

BY CHECKING OUT A BIKE (EITHER BY VIRTUE OF A MEMBERSHIP OR RENTAL) RIDER ACKNOWLEDGES THAT HE OR SHE HAS READ, UNDERSTANDS AND EXPRESSLY AGREES TO THE ABOVE AGREEMENT AND TERMS AND CONDITIONS.