

Bicycle Locker Program

Terms of Use Agreement

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THIS AGREEMENT made in the Province of Ontario

BETWEEN:

THE CITY OF TORONTO

a municipality created under the laws of the Province of Ontario.

(hereinafter referred to as “**the City**”)

– **AND** –

BICYCLE LOCKER PROGRAM PARTICIPANT

having residence and/or principal place of business in the City of Toronto, in the Province of Ontario

(hereinafter referred to as “**User**”)

WHEREAS the Council of the City of Toronto has by resolution adopted a strategic planning document under the title the “Toronto Bike Plan”

(hereinafter referred to as the “Bike Plan”) to establish a vision for cycling in Toronto, setting out integrated principles, objectives and recommendations regarding safety, education and promotional programs as well as cycling related infrastructure, including secure, long term

bicycle parking; and

WHEREAS “Bicycle Locker Project” is a component of the Bike Plan presented by the City and focusing on bicycle commuting and other

cycling themes carried out within the goals of the Bike Plan.

NOW THIS AGREEMENT WITNESSETH that in consideration of the covenants and promises set out hereunder, the parties have agreed that

the governing terms and conditions shall be as follows:

1. DEFINITIONS

1.1 For the purposes of this Agreement, the following words or expressions shall have ascribed to them the meanings indicated as follows:

- (a) “**Agreement**” means this user fee agreement, including all schedules thereto, as amended from time to time pursuant hereto;
- (b) “**Bike Plan**” means the City document titled “Toronto Bike Plan – Shifting Gears”. The Official Plan for the City of Toronto recommends the implementation of the Toronto Bike Plan which was approved by City Council in 2001.
- (c) “**User**” means the individual renting the locker;
- (d) “**User fee**” means the provision of a fee by the User to the amount set out hereunder as subject to the terms and conditions set out by this Agreement;

2. USER

2.1 Individuals who are 16 years old or older and who commute regularly by bicycle will be eligible to enter into this agreement.

2.2 If the demand for lockers exceeds the capacity of the bike locker pilot program, a waiting list will be maintained, bicycle lockers will

be assigned on a first-come-first-served basis and residents of Toronto shall be given priority over other Users.

3. USER FEE PAYMENTS

3.1 As consideration for the user fee rights provided for in this agreement the User, shall make payment to the City in the aggregate amount of Ten Dollars [\$10(CDN)] plus 5% GST per month at a minimum of 4 months payable on or before the first day of the contract period.

3.2 The user fee may be subject to change at the sole discretion of the City. The City agrees that no user fee will change during a fixed rental period. Any increase or decrease in the user fee will be applied to new rental agreements or renewal agreements.

3.3 The user fee is non-transferable and not assignable to a third party.

3.4 Allowable methods of payment include and are limited to certified cheque, money order, cash, or debit card. No personal cheques or

credit cards will be accepted by the City for user fee payment.

3.5 Upon payment the City will provide the User with a copy of the Terms of Use agreement. The agreement will contain the date and amount of the payment, as well as a reference to the City’s Bike Plan and bicycle locker unit.

3.6 In the event that the User misplaces a locker key, or does not return the locker key within the allowable time period, the User shall make payment to the City in the aggregate amount of Ninety Dollars [\$90(CDN)] + 5% GST.

3.7 In the event that the User fails to make the required payment to the City for a misplaced key the account will be sent to a collection agency. The User will make payment to the collection agency in the aggregate amount of Ninety Dollars [\$90(CDN)] plus applicable taxes and agency fees.

3.8 If the User terminates this agreement before the end of the user fee period, no amount of the user fee payment shall be refunded.

4. USER DUTIES

4.1 The User will agree to use the locker for the purposes of storing a bicycle and bicycling accessories only. No food, perishable items,

hazardous or combustible materials including oils and aerosol cans will be stored in the bicycle lockers at any time.

4.2 Users will not affix any additional locking devices, posters, decals or any other materials or markings to the inside or outside of the bicycle locker.

4.3 At the end of the user fee period the User will clean the locker thoroughly and remove all contents.

4.4 User shall make payment to the City for any costs incurred by the City for the cleaning or repair of a locker, lock mechanism or key at

the termination of the user fee period.

4.5 It is a responsibility of the User to notify the City immediately of any difficulty operating the bicycle locker, or of any damage incurred to the bicycle locker.

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5. INSPECTIONS

5.1 The City agrees to inspect each bicycle locker prior to user fee to ensure that it is in good working condition.

5.2 All bicycle lockers will be subject to periodic inspections at the sole discretion of the City to confirm proper usage, assess maintenance requirements, or in the event of an emergency or reasonable suspicion that a health or safety concern exists.

5.3 The date and time of all inspections will be recorded and made available to the User at the User's request.

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6. LIABILITY

6.1 The City will not be responsible for the damage to, theft, or loss of any property stored in the locker during the user fee contract. The

City will not be liable to the User or anyone else for any damages whatsoever, including any indirect, special, incidental or consequential

damages arising out of or in connection with the use of the bicycle locker.

6.2 The User will be responsible for any damage caused by the user to the locker, lock mechanism, or key during the user fee contract period.

7. TERM

7.1 The City and User agree that this agreement will commence and terminate on the dates that are specified on the Bicycle Locker Application/Renewal Agreement.

8. RENEWAL

8.1 The User will have the right to renew this agreement for additional user fee periods upon these same terms and conditions, which will

not be the subject of negotiation.

8.2 Upon receipt of renewal payment the City will provide the User with a copy of the user fee renewal form. The renewal form will contain the date and amount of the payment, as well as a reference to the City's Bike Plan and bicycle locker unit.

8.3 The User will not be required to sign a new Terms of Use Agreement for the purpose of renewing an existing user fee contract. The

user fee renewal form shall be sufficient documentation to extend the User into a new user fee period.

8.4 The City agrees to notify the User of the possibility of renewal no later than 2 weeks prior to the end of the user fee period.

8.5 The User agrees to provide written notice to the City of the intention to renew this agreement no later than two weeks prior to the end

of the user fee period.

8.6 If the User does not provide renewal payment to the City on or before the final date of the previous user fee period, the City will confiscate the contents of the locker, change the lock mechanism and conclude agreements with other Users.

9. INDEMNITY

9.1 The User agrees to defend, indemnify and hold the City of Toronto, its officials, employees, agents and representatives harmless from

and against any and all claims, losses, damages and expenses of any kind, including legal fees, which may arise as a result of the operation of the

Bike Locker Program and all related activities, or City of Toronto operations thereof.

10. TERMINATION

10.1 At the sole discretion of the City, this Agreement may be terminated by the City of Toronto at any time with justifiable cause including an emergency situation.

11. NOTICE

11.1 Any notice under this agreement required or permitted to be given by the City to the User will be in writing and will be sufficiently

given by personal delivery, by regular mail, or by sending a facsimile addressed to the User with copy retained by the City

11.2 Any notice under this agreement required or permitted to be given by the User to the City of Toronto will be in writing and will be

sufficiently given by personal delivery, by regular mail, or by sending a facsimile addressed to:

Bicycle Locker Program

City of Toronto,

City Planning, Transportation Planning

850 Coxwell Avenue 1st Floor

Toronto, Ontario

M4C 5R1

Tel: (416) 392-2577

Fax: (416) 392-0071

E-mail: bikelocker@toronto.ca

11.3 Any such notice, direction or other instruments, if delivered, shall be deemed to have been given on the fourth business day after it

was mailed.

12. NO ASSIGNMENT WITHOUT CONSENT

12.1 This agreement is not assignable by the City without the prior written consent of the User. Any attempt to assign any of the rights, duties or obligations of this agreement without written consent is void.

13. GENERAL

13.1 This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

13.2 This Agreement is not intended nor does it create a joint venture or partnership between any or all of the City of Toronto and the User.

13.3 Neither party is, or shall be considered to be, an agent or representative of the other. Neither party shall act or represent itself, directly or by implication, as an agent of the other, or in any manner assume or create any obligation on behalf of, or in the name of, the other.

13.4 Wherever the singular or masculine are used throughout this Agreement, the same shall be construed as meaning the plural or feminine or neuter where the context so requires.

13.5 Subject to the restrictions on assignment, this agreement shall endure to the benefit of and be binding upon the respective successors and assigns of the parties.