

Citybike Wien
Gewista Werbeges.m.b.H.
PO box 124
A-1031 Vienna



GENERAL TERMS AND CONDITIONS GOVERNING THE USE OF THE CITYBIKE-CARD ('TERMS - CB-CARD')

These Terms CB-Card shall apply between the Users of 'CITYBIKE WIEN' bicycles who apply for a Citybike-Card (hereinafter referred to as the 'Users') on the one hand and Gewista-Werbegesellschaft m.b.H. (hereinafter referred to as the 'Operator') on the other.

1. Conclusion of Contract

Upon acceptance of the card application by the Operator and successful charging of the registration fee to the account, the User shall obtain a user card (hereinafter referred to as 'CB-Card') as well as access data (user name and password). The Agreement shall be regarded as concluded when the applicant has been sent the CB-Card and after the one-time registration fee has been paid by charging it to account. By signing the card registration, the User declares his acceptance of all the individual provisions of these Terms as amended.

2. User's Rights

- 2.1 The CB-Card shall entitle to the use of the service provided by Citybike Wien ("CBW") without a cash payment as long as there exists a contractual relationship, the card has not expired, and the User is able to meet the obligations therein.
- 2.2 The User shall be entitled to retrieve information about his hires and resulting costs as well as their status (paid/open) on the Internet at www.citybikewien.at by entering his access data (user name and password).
- 2.3 There is no obligation on the part of the Operator to deliver, render services or provide any operation whatsoever.

3. Ownership of the CB-Card

The CB-Card shall remain the property of the Operator. The CB-Card as well as any partner cards can be reclaimed at any time; a right of retention by the User shall be excluded.

4. User's Obligations

The User shall:

- pay the hourly rates in accordance with the rates specified by the Operator in the TERMS-CBW;
- keep his CB-Card and access data (user name and password) in safe custody and treat this access data as confidential;
- ensure sufficient cover of his account during the term of this Contract;
- make known any changes to his bank details immediately and provide a direct debit order for the new account in writing;
- notify the Operator (telephone no. +43 - 1 - 7980 777; www.citybikewien.at; kontakt@citybikewien.at) and the nearest police station immediately of the theft or loss of his CB-Card and send a copy of the police report to the Operator by post.
- notify the Operator (telephone no. +43 - 1 - 7980 777; www.citybikewien.at; kontakt@citybikewien.at) immediately of any damage, other unusability, improper use or non-receipt of the CB-Card.
- upon termination of the Agreement, for any reason whatsoever, immediately make the CB-Card invalid and send it to the Operator by post.

5. Rates

Apart from the rates specified in the Terms CITYBIKE WIEN in item 5 ("Rates"), the following rates shall apply:

One-time registration fee per partner card	EUR 1.00
Replacement of card in the case of an error	EUR 1.00
Blocking of card in case of loss and new issuing.....	EUR 5.00
Processing fee for unsuccessful debiting attempt	EUR 10.00

Subject to changes of rates.

6. Invoicing

- 6.1 Any and all amounts shall always be due on the last day of the respective month (the end of the calendar month).
- 6.2 The User confers the Operator a direct debit mandate to charge any outstanding balance plus any applicable interest, charges and fees to the User's account as specified on the card application form. The direct debit mandate shall remain in force for the duration of the contractual relationship or, if this is the later date, until the User has completely fulfilled all his obligations.
- 6.3 In the event of late payment, default interest of 8% p.a. as of the due date shall be deemed as agreed upon; any dunning and collection charges are for the account of

and payable by the User. If the User defaults on individual payments or the Operator terminates the Contract, any and all claims shall immediately become due.

- 6.4 Any set-off of counterclaims by the User shall be excluded unless he is a consumer within the meaning of the Consumer Protection Act (*Konsumentenschutzgesetz*).
- 6.5 All invoices will be available for download via the login section of the website www.citybikewien.at and shall consequently be deemed as received by the User even if no paper invoice has been sent to him.
- 6.6 Any information about any open payment transactions shall be transmitted in a legally effective way before any due date by the payment service provider or payment recipient exclusively to the e-mail address specified on the card application form.

7. User's Liability

- 7.1 The User shall be liable for any use contrary to the terms of the contract, to the designated use, or any other improper use. He shall indemnify and hold the Operator completely harmless in all respects against any claims and demands made against him, for instance.
- 7.2 The User shall be liable for any and all claims arising against the Operator through the use of the CB-Card or any partner cards in the period from the issuing of the CB-Card until receipt by the Operator of the required information concerning the loss, theft, damage or other reasons for claims. As of the time of the proper receipt of the information by the Operator and subject to acceptance by the Operator of the submitted reasons, the User shall not be liable vis-à-vis the Operator for any claims resulting from an improper use of the CB-Card or any partner cards by third parties. Should the User find the card again he has reported as lost, he shall be forbidden to use it again but obliged to make it unusable and send it to the Operator immediately. In addition, any loss or theft shall immediately be reported to the competent authorities.

8. Duration of the Agreement

- 8.1 The period of validity of the CB-Card and this Agreement shall be three years. After that, an application for a new CB-Card must be submitted.
- 8.2 Both contractual parties shall be entitled to terminate the Agreement by registered mail upon one month's notice. Any termination by the User shall be valid only if the CB-Card and any partner cards have been enclosed.
- 8.3 In addition, both contractual parties shall be entitled to terminate the Agreement immediately for material breach of contract. A material breach of contract arising on the part of the User which gives the Operator the right to terminate the Agreement immediately shall, in particular, be deemed to be given in the event that the User does not meet his payment obligations, violates any other obligation assumed in connection

with this Agreement, that bankruptcy or judicial composition proceedings are opened against him or that there is reasonable suspicion of unauthorised or improper use and application of his CB-Card. In these cases, the Operator shall have the right to block the CB-Card as well as any partner cards with immediate effect.

- 8.4 After termination of this Agreement, for whatever reason, the User shall no longer be entitled to take advantage of the possibilities granted to him within the framework of this Agreement regarding the use of the CBW system nor use the CB-Cards issued under his name.

9. Partner Card

- 9.1 Every User can apply for additional partner cards. The provisions concerning the CB-Card shall apply to partner cards accordingly.
- 9.2 The Card Owner shall be obliged to impose any and all obligations arising from the General Terms and Conditions Governing the Use of 'CITYBIKE WIEN' Bicycles as amended to every person he allows to use a city bike hired by using one of his partner cards.
- 9.3 The Card Owner shall be liable vis-à-vis the Operator for any use of the partner card as well as for any use of a city bike hired by using the partner card as if he himself had used the partner card or the city bike respectively.

10. Declaration of Consent in Connection with the Data Protection Act

The User agrees that any and all data disclosed by him to the Operator within the framework of the contractual or business relationships hereunder will be stored in an automated way by the Operator for the purpose of the performance of this Agreement and that this data will be passed on by the Operator for this purpose to sub-contractors (Gewista Service GmbH; Sycube Informationstechnologie GmbH) employed within the framework of the CBW system and processed within these companies. The User shall be entitled to revoke this declaration of consent in writing at any time by returning the CB-Card as well as any partner cards at the same time. In this case, the contract shall terminate upon receipt of the letter by the Operator.

11. Non-transferability of the CB-Card and any Partner Cards

The CB-Card and any partner cards shall be non-transferable. The User shall not be entitled to assign any of his rights and obligations arising from this Agreement to third parties in any way whatsoever.

12. Scope of Application of the Terms - CITYBIKE WIEN

For all services under this Agreement obtained by using a CB-Card, the General Terms and Conditions governing the use of 'CITYBIKE WIEN' Bicycles as amended shall apply.

13. Operator's Liability

Damage compensation claims against the Operator, for any reason whatsoever, are excluded unless caused due to gross negligence or intent on the part of the Operator. The burden of proof in this respect shall be on the User unless he is a consumer within the meaning of the Consumer Protection Act (*Konsumentenschutzgesetz*). Any damage compensation claims against the Operator due to malfunctions of the CB-Card or of the CBW hiring system shall be excluded generally.

14. Saving Clause

Should any of the individual provisions of these General Terms and Conditions be or become invalid, this shall not affect the validity of the other provisions hereof. In such a case, the parties to this Agreement undertake to replace the invalid provisions by such that meet their economic objectives.

15. Applicable Law and Jurisdiction

The Agreement between the Operator and the User shall be governed by Austrian law to the exclusion of the referral rules of Austrian Private International Law. Should a dispute of any kind whatsoever arise under or in connection with the Usage Contract, the Austrian court with substantive jurisdiction for Vienna Innere Stadt shall, to the extent permitted by law, have exclusive jurisdiction.

16. Scope of Application of these Terms and Conditions

The Terms CB-Card shall apply in the version published at the web site www.citybikewien.at. By entering his password at the CB terminal, the User accepts the Terms CB-Card as amended unless he sends the CB-Card and any partner cards back to the Operator immediately. Furthermore, any modifications of or amendments to this Agreement shall be effective only if they have been made in writing; this shall also apply to any amendment to this formal requirement.