

General Terms and Conditions

FA.MO.SE bike sharing service

Last updated: 15/11/2023

§ 1 Scope and object of these General Terms and Conditions

- (a) The FA.MO.SE bike-sharing system is a service offered by the Municipalities of Senigallia and Mondolfo and entrusted to TIER Mobility SE ("TIER"), providing access to "smart" self-service bicycles, both traditional and pedal assisted and equipped with an on-board interface communicating with the central control system (together the "Bikes"), subject to availability and only within a defined territory (hereinafter referred to as the "Operational Area") in Italy.
- (b) Rentals and returns are possible using the dedicated smartphone app ("App").
- (c) These terms and conditions ("Terms and Conditions") regulate the manner in which TIER provides customers (the "Customer") access to the service, the relationship between TIER and the respective Customer in terms of the registration ("Framework Agreement") and the conditions for the conclusion of a Bike rental agreement.

§ 2 Registration and confirmation

- (a) Access to the service is subject to a specific prior registration process requiring the acceptance of these Terms and Conditions and acknowledgment of the privacy policy brought to the attention of the Customer and made available during the registration process.
- (b) The registration is made through the App.
- (c) Following receipt of all relevant personal data TIER is free to conclude the Framework Agreement with the applicant. Approval of the registration shall result in the issuing of an activation notification. This notification may occur via email or SMS. Upon conclusion of the Framework Agreement, which is for an indefinite period, the Customer receives an account ("Account"). In order to become a registered customer, the applicant must be 18 years of age at the time of registration.
- (d) At the time of registration, the Customer receives an identification number (PIN) through which can access the App and conclude the Framework Agreement. Information on the use and functionality of the service, the rates, are available on the App and on the website <https://www.comune.senigallia.an.it/aree-tematiche/mobilita/bike-sharing-fa-mo-se/> ("website").
- (e) Registration in all cases is free. A valid means of payment must be provided at the time of registration. For the verification a fee of € 1.00 is charged, which is credited to the Account and deducted from the sum due for the rental.
- (f) The Customer is obliged to immediately inform TIER of changes to the Customer's personal data and those necessary for billing (bank account, credit card details, etc.).

§ 3 Start and duration of the rental agreement

- (a) By pressing the start trip button in the App, Customers will accept the rental of the Bike they have reserved. By authorizing the use of the Bike, TIER will confirm the rental.
- (b) The rental period begins when the rental agreement is concluded and ends when the Customer duly returns the Bike in accordance with §7 and §8.
- (c) The Customer has to inform TIER of the end of the rental period in accordance with §8. Upon provision of this information, the rental period to be invoiced will end. The official end of the rental period will be marked in the App. In the event that the Customer cannot end the rental, the Customer shall contact the customer service.

§ 4 Restrictions on use

Each Customer can rent through the use of their data, simultaneously up to a maximum of 4 Bikes (any limitations in this regard, are shown on the internet pages of the individual areas of use). A case-by-case agreement can be concluded with TIER depending on the availability of Bikes.

§ 5 Terms of Use

- (a) The Bikes may not be used:

- by persons under the age of 18 (unless accompanied by an adult);
 - for the carriage of passengers, in particular small children, with the exception of bicycles with child seats for the carriage of children over seven years of age. In this case, children must be fastened with the seat belt supplied and must have worn and fastened a safety helmet. The use of a bicycle with child seat does not involve any processing by TIER of the minor's personal data;
 - outside the Operational Area;
 - for hiring for third parties;
 - by individuals under the influence of alcohol or drugs (zero legal (alcohol) limit);
 - If the Bikes are used in unfavorable weather conditions (e.g strong wind, rainy weather, stormy weather) or any weather conditions that are unfavorable for Bike usage, the driver may experience these weather conditions to a greater extent in relation to a normal bike due to the advertising panels used on the bikes. The use of Bikes during any adverse weather conditions is at one's own risk and TIER advises the user not to use the bike in such conditions.
- (b) The Customer is obliged to obey all road and traffic laws and regulations.
- (c) Bikes should never be ridden without resting your hands on the handlebars.
- (d) Improper use of the basket is not allowed and in any case for the transport of objects weighing more than 5 kg; the Customer must ensure that the objects transported have been correctly secured with the means of retention present or with others available.
- (e) It is forbidden to carry out interventions or modifications to the Bike or to secure it with a padlock other than the one supplied.
- (f) After receipt of the confirmation of return of the Bike, the Customer can no longer use the Bike. In order to use the bike again, a new rental agreement must be concluded.
- (g) Customer is not authorized to change the lock code and the combination nor can it pass it on to third parties.
- (h) If the Customer makes the Bike available to third parties, the Customer must ensure that the third party complies with the rules of these general conditions. The conduct of the third party is considered as if it had been held by the Customer who is liable to TIER for any act and/or omission of the third party.
- (i) In case of violation of the above prohibitions, TIER will have the right to terminate the Framework Agreement pursuant to and for the purposes of art. 1456 c.c. by simple written communication to the Customer, always without prejudice to the application of penalties provided for individual cases of violation. In case of termination, the Customer to use the rental service again, must renew his membership.

§ 6 Condition of the Bike

- (a) Before renting, the Customer must be aware of the general functioning of the rented Bike.
- (b) If there is an obvious defect or an obvious impairment of functionality or traffic safety at the beginning of use, or if such a defect or impairment occurs during use, the Customer is obliged to notify customer service and desist from using the Bike Immediately. If there is a technical defect or deficiencies after rental but before the Customer uses the Bike, the rental will be canceled by TIER.
- (c) Defects such as tire damage, rim defects or gear shift failures must also be reported immediately. If the Bike is found without its lock, the Customer shall contact customer service.

§ 7 Parking of Bikes

- (a) The Bike must be parked in plain sight. The Customer is obliged to follow road traffic regulations when parking. Furthermore, the Customer must ensure that the Bike does not hinder road safety, that other vehicles and/or traffic is not obstructed and that no damage is done to third parties or their property. The kickstand is to be used every time that the Bike is parked and the Bike is to be placed in the provided bike racks at the rental station when available/applicable.
- (b) In particular, it is not allowed to park rental bikes permanently or temporary:
- at traffic lights;
 - at parking ticket machines or parking meters;
 - at traffic signs;
 - on walkways which are thereby reduced to a width of less than 1.50 meters;

- in front of, in or near emergency exits and fire department service zones;
 - where the Bike covers local advertisements;
 - to lock the bike at fences of private or public buildings;
 - on train and bus platforms;
 - on public bike racks;
 - in buildings, backyards/ courtyards or within any type of vehicles at any time;
 - on guiding plates for the blind;
 - at or in front of post boxes;
 - in front of doors or gates or in their swivel range;
 - in or in front of driveways.
- (c) The Bike must be locked properly when not in use, even if the Customer leaves the Bike unattended for a short time. More information about how to lock a Bike can be found on our <https://www.comune.senigallia.an.it/aree-tematiche/mobilita/bike-sharing-fa-mo-se/>.
- (d) Customers are not allowed to park the Bikes on private property only once allowed to do so by any person/s having the authority to grant such permission
- (e) Failure to comply may result in a contractual penalty of 20,00 Euro. TIER expressly reserves the right to assert claims for damages in excess of the contractual penalty.

§ 8 Return of Bikes

- (a) The returning of Bikes outside the Operational Area for the Service is not permitted. The return of Bikes must take place within the Operational Area, at the stations or in a flex zone, as shown on the website and App in compliance with the parking terms provided for by the rules of the Highway Code as well as the related implementing regulations and the traffic ordinances of the relevant municipalities and the provisions referred to in §7 above. The return can also take place in the "Flexzone" consisting of specific routes marked in the service map and marked by the App. It is not allowed to return Bikes outside the Stations, flex zones or on private land. For the return of Bikes within the Flexzone there is an extra cost of € 0.50.
- (b) The Customer is required to inform about the Bike return via the App and to confirm the exact location of the Bike (station name / number or GPS coordinates and or any information that will assist in the successful return of the Bike) or where the Bike is returned by automatically by locking it, the Customer has to verify in the App if the return was successful.
- (c) In cities using a Flexzone, which are visible in the map using a smartphone or desktop website, the Bike can be returned to the designated public locations.
- (d) Should the Customer, due to the Customer's own fault, not return the Bike at the defined areas as described in paragraphs a) to c), provide false information or forget to return the Bike properly, a contractual penalty of 20,00 Euro may be charged by TIER.

§ 9 Liability of TIER

- (a) TIER is liable towards the Customer for foreseeable loss and damage caused by TIER. If TIER fails to comply with these Terms and Conditions, it is liable for the loss or damage suffered by the Customer that is a foreseeable result of such failure or TIER's failure to use reasonable care and diligence. Loss or damage is foreseeable if it is obvious that it will occur or if it was reasonably foreseeable to both parties when the contract was made.
- (b) TIER has no liability towards the Customer:
- for losses that were not foreseeable by the Parties when the agreement was made or when the Customer rented a Vehicle;
 - any loss and/or damage suffered by the Customer to the extent that it results from the Customer's failure to comply with these Terms and Conditions or from any event beyond TIER's reasonable control; or
 - for any loss of profit, loss of business, business interruption or loss of business opportunity if the Customer uses TIER's services for any business or commercial purpose.
- (c) TIER does not exclude or limit its liability to the Customer where it would be unlawful to do so. This includes liability for death or personal injury caused by TIER's negligence or the negligence of TIER's employees, agents, or subcontractors; for fraud or fraudulent misrepresentation; or for violation of the Customer's legal rights.

§ 10 Liability of the Customer

- (a) The Customer is liable for any damages for which the Customer is responsible. This includes notably any theft, damage or loss of a TIER Bike for which the Customer is responsible. TIER has the right to be indemnified by the Customer in connection with any legitimate third party claim (including attorney's fees) to the extent that the Customer is not covered by a personal insurance.
- (b) The Customer is responsible for all violations of traffic regulations, regulations relating to the parking and parking of Bikes, public order regulations, and other provisions of law for which the Customer is responsible in connection with your use of a Bike. The Customer is responsible for all resulting penalties, fees and costs (including, but not limited to, any fines for parking and parking in unauthorized areas) and the Customer must indemnify TIER in connection with any third party claims. In addition, TIER is authorized to charge an administrative fee in accordance with the current price list to cover its costs arising from violations of these Terms and Conditions.
- (c) For the avoidance of doubt, the Customer will not be liable if and to the extent that any such penalties, fees, costs or claims result from your use, in accordance with these Terms and Conditions, of a defective Bike, provided that the Customer promptly notified TIER of any defects in the Bike in question.
- (d) No limitation of liability agreed between the Customer and TIER with respect to damage to a Vehicle applies if the Customer has intentionally caused the damage.

§ 11 Customer obligations in case of an accident

TIER must be informed of accidents immediately via the available customer service channels. In cases of accidents involving not only the user, but also third-party property or other persons, the customer is also obliged to report the incident to the police immediately. Failure to do so on the part of the Customer shall result in the customer being liable for damages incurred by TIER owing to infringement of said obligation.

§ 12 Confidentiality of the Customer's personal data

- (a) The Customer must ensure that his personal data and in particular the personal password / PIN are protected from unauthorized access by third parties.
- (b) TIER informs that none of its employees is authorized to request the personal password / PIN.
- (c) The Customer can freely modify his access data. If the Customer becomes aware of any misuse in the use of the Customer's personal data, he will be obliged to notify TIER without delay.

§ 13 Calculations and fees

- (a) Depending on the rate chosen, TIER is entitled to collect the rental fees regularly. The Customer undertakes to pay the respective rent. This is the total price, which includes the respective statutory value added tax. The rent is due upon termination of the rental contract. The rental fees and rates in force from time to time can be found on the App, stations and in the website <https://www.comune.senigallia.an.it/aree-tematiche/mobilita/bike-sharing-fa-mo-se/>.
- (b) Special rates such as annual, daily or monthly rates or any discount coupons are valid for each individual Bike per rental and are personal and non-transferable. Detailed information on special rates or deadlines for withdrawal can be found on the App, stations and in the website <https://www.comune.senigallia.an.it/aree-tematiche/mobilita/bike-sharing-fa-mo-se/>.
- (c) Subscriptions for special rates do not renew automatically.

§ 14 Payments and late payments

- (a) The Customer is obliged to pay the sums due through the use of a means of payment accepted by TIER. The Customer has the right at any time to modify the means of payment linked to the Account.
- (b) Should it be impossible to process a direct debit in relation to services purchased due to insufficient funds in the Customer's account due to Customers' fault or for other reasons for which the Customer is responsible, TIER may charge the Customer the additional expenses incurred by TIER in this regard, unless the Customer is able to show that the actual expense incurred was lower. In individual cases and insofar as the Customer is unable to show that the expense was indeed lower, the claims made by TIER may amount to but not exceed the actual expenses incurred.

- (c) The use of third-party payment services may result in additional charges, which will be communicated by the service provider.
- (d) If payment by the Customer is not made within the due date, the Customer will be required to pay interest at the rate on late payment according to statutory provisions, additional costs may also be charged for formal notice.
- (e) If the Customer is in default of payment for a period of not less than 2 months or the sum of at least 15,00 Euro, TIER is entitled to immediately expire all claims against the Customer and to block all services until the customer settles the debt.

§ 15 Invoicing, reporting and controls

- (a) TIER charges the Customer the fees according to the price list published on the App, stations and _____ in _____ the _____ website <https://www.comune.senigallia.an.it/aree-tematiche/mobilita/bike-sharing-fa-mo-se/>. To this are added all costs and charges due for services not automatically charged such as penalties and/or costs caused by breach of contract by the Customer or fees for special services.
- (b) Debiting of the Customer's Account occurs automatically. TIER reserves the right, however, to demand payment by Customers either per telephone or in written form.
- (c) Objections to debited charges must be submitted in writing to TIER within 30 days of receipt of the invoice. Customer rights following expiry of the objection period, also in cases of rightful claims, remain unaffected. Any refunds due will be credited to the Customer's Account and applied to the next due payment unless otherwise dictated by the Customer.

§ 16 Withdrawal

- (a) The Customer has the right to withdraw without giving any reason within 14 days from the date of conclusion of the contract, pursuant to the Legislative Decree No. 206 of September 6, 2005. To exercise the right of withdrawal, the Customer must inform TIER in writing by addressing the request at the following address: fa.mo.se@openmove.com.
- (b) In the event of withdrawal, TIER will refund all payments received from the Customer, without undue delay and, in any event, no later than 14 days from the date on which TIER is informed of the Customer's decision to withdraw from the contract. TIER will make the refund using the same means of payment used by the Customer for the initial transaction, unless the Customer expressly agrees to a different means. The Customer will be entitled to a reimbursement of the sum exceeding the proportional cost compared to the total cost agreed, depending on the days of use of the service until the date on which the Customer informed TIER of the exercise of the right of withdrawal.

§ 17 Term and Termination

- (a) The Framework Agreement is concluded for an indefinite period and may be terminated by either party to the agreement in writing upon giving a notice period of two weeks.
- (b) Either party may terminate for cause with immediate effect. TIER shall be entitled to terminate the Framework Agreement with immediate effect if:
 - (i) Customer's repeatedly default in making payments owed to TIER, despite having been notified by TIER of such defaults;
 - (ii) The Customer has repeatedly violated traffic laws and/or other legal or regulatory provisions applicable to the use of the Bike;
 - (iii) The Customer provides incorrect information or conceal factual circumstances during the registration process or in the course of your contractual relationship with TIER such that it would be unreasonable to expect TIER to continue the contractual relationship;
 - (iv) Despite having been sent a warning letter before action, you fail to desist from serious breaches of these Terms, or fail within a reasonable time to correct any existing consequences of such breaches;
 - (v) Drive a Bike under the influence of alcohol or drugs;
 - (vi) The Customer discloses login data for your TIER user account to another person; or
 - (vii) The Customer attempts to read out, copy or manipulate the TIER App.
- (c) Subscriptions for special rates do not renew automatically. Special rates will be terminated either on (i) the use of the maximum rides allowed, or (ii) at the end of its contractual term, whichever occurs first. TIER may cancel the subscription for a special rate upon reasonable

notice, in case of material breach of these Terms and Conditions, unless the Customer is able to refute the termination's statement of grounds. TIER may exclude the Customer from use, if the Customer has acted in a manner contrary to these Terms and Conditions and has failed to react to the notification sent by TIER to remedy the breach of these Terms and Conditions.

§ 18 Amendment of the Terms and Conditions

- (d) TIER reserves the right to modify these Terms and Conditions to the extent necessary to (i) adapt them to changes in law or technical framework conditions, or (ii) to reflect changes in our services or business practices, or (iii) to prevent abuse or damage. In particular changes are permitted in the event of legislative changes, by jurisprudence or as a result of changed market conditions.
- (e) Changes are made known to the Customer by written communication or by e-mail with a notice of at least 30 days before the date of commencement of the change. The changes are considered effective, subject to publication on the website, after 30 days from the date of their communication to the Customer. The use of the rental service, after 30 days from the communication, implies the application of the new Terms and Conditions.

§ 19 Data protection

- (a) TIER collects, stores and uses customers' personal data, where it is necessary to fulfill its contractual obligations or the realization of the contract between the customer and TIER or to fulfill any other legal duty. TIER is obligated to use that data only in compliance with the provisions set forth in the general data protection regulations.
- (b) TIER is entitled to disclose information about the Customer to investigating authorities and to the necessary extent, in particular the customer's address, should proceedings be initiated against the customer for a civil or criminal offense.
- (c) For the purpose of payments, the Customer's payment data will be transferred to our payment-partners for verification and accounting of the rental fees. Following the registration process, this data is no longer visible to employees of TIER.
- (d) Further information regarding the use, administration and processing of personal information may be viewed in our Privacy Policy online at <https://www.comune.senigallia.an.it/aree-tematiche/mobilita/bike-sharing-fa-mo-se/>.

§ 20 Final provisions

- (a) The Customer may not assign rights or obligations under the Framework Agreement to a third party without TIER's prior consent. TIER may transfer its rights and obligations under the Framework Agreement to another company or entity.
- (b) If TIER does not immediately insist that the Customer does something that the Customer is obligated to do under these Terms and Conditions, or if TIER delays taking action against the Customer in connection with any violation of these Terms and Conditions by you, this will not prevent TIER from taking action against the Customer at a later time.
- (c) If a court finds any part of these Terms and Conditions to be unlawful, the remainder will remain unaffected. Each of the paragraphs of these Terms and Conditions operates separately. If a court or competent authority decides that one of the paragraphs of these Terms and Conditions is unlawful, the remaining paragraphs will remain in full force and effect.
- (d) The Framework Agreement is between the Customer and TIER. No other person shall have any right to enforce its terms.