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THE CITY OF NEW YORK
DEPARTMENT OF TRANSPORTATION

POLLY TROTTERBERG
COMMISSIONER

AMENDED AND RESTATED AGREEMENT

FOR

BIKE SHARE PROGRAM

among

The City of New York
Department of Transportation,
and

NYC Bikeshare, LLC,

October 24, 2014

2014-039051

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AGREEMENT FOR BIKE SHARE PROGRAM

THIS AMENDED AND RESTATED AGREEMENT FOR BIKE SHARE PROGRAM, has been executed and delivered as of October 24, 2014] by and between The City of New York (the "City"), acting by and through its Department of Transportation ("DOT") and having an address at 55 Water Street, New York, New York 10041, and NYC Bike Share, LLC ("NYCBS"), having a place of business at 5202 Third Avenue, Brooklyn, New York 11220, and shall become effective on the Effective Date (as defined below), with reference to the following facts:

WITNESSETH:

WHEREAS, self-service bicycle sharing programs are revolutionizing the way residents commute and tourists travel within cities in Europe and North America, and a self-service bicycle sharing program with public access has been determined by the City to be a desirable and valuable mode of alternative public transportation for the community; and

WHEREAS, a bike sharing program will provide a 24-hour transportation network that complements existing transit and transportation options, increases multi-modal travel options in the City and encourages bicycle use as an environmentally friendly and congestion-reducing transportation option; and

WHEREAS, on November 23, 2010, DOT issued a Request for Proposals ("RFP"), seeking a contractor to design, build, operate, maintain and publicize a network of publicly available bicycles in a bike share system in New York City; and

WHEREAS, on February 16, 2011, Alta submitted to DOT a proposal in response to the RFP; and

WHEREAS, DOT recommended the proposal based on DOT's assessment that the proposal was the most beneficial proposal in the interest of the City; and

WHEREAS, accordingly, the City and NYCBS have negotiated the following Agreement for the design, build, operation, maintenance and publicizing of a network of publicly available bicycles in a bike share program in the City (which Agreement is in amended and restated form to incorporate mutually agreed upon changes reflecting experience with the program since its inception); and

NOW, THEREFORE, in consideration of the foregoing clauses, which clauses are hereby made a part of this Agreement, and the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties do hereby covenant and agree as follows:

SECTION 1

DEFINED TERMS

For purposes of this Agreement and the Appendices and Exhibits hereto, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended.

1.1. "Accessory Software" designates all Software components, other than the Back-end Software and the Bike Station Software, which may be provided by the Vendor to NYCBS or the Client from time to time, in the context of the performance of Vendor Professional Services or otherwise including, without limitation, mobile applications allowing end users to verify the availability of Bicycles throughout the Client's Complete Bicycle System and any website developed by Vendor for the Client;

1.2. "ADA" shall have the meaning given in Section 26.14 herein.

1.3. "Ad Hoc Site Selection" shall mean the process for determining Station sites which are not part of the Phase II expansion and the Phase III expansion.

1.4. "Adjustment" shall mean permanent or temporary changes to a Station's size or configuration, and changes to Street Treatments and Street Markings as necessitated by such, without changes to the Station location.

1.5. "Advertising" shall mean any printed matter, including, but not limited to, words, pictures, photographs, symbols, graphics or visual images of any kind, or any combination thereof, promoting or soliciting the sale or the use of a product or service or providing other forms of textual or visual messages or information, but in no event shall it include any textual information that is required to be posted on any Equipment by any federal, state or local law, rule or regulation, or by this Agreement.

1.6. "Agreed Phase II Completion Date" has the meaning given such term in Section 3.2.4 herein.

1.7. "Agreement" shall mean this Amended and Restated Agreement for Bike Share Program, together with all Appendices and Exhibits hereto and all amendments or modifications hereof or thereof.

1.8. "Alcohol Advertising" shall mean Advertising or Sponsorship, the purpose or effect of which is (i) to identify a brand of an alcohol product, a trademark of an alcohol product or a trade name associated exclusively with an alcohol product, or (ii) to promote the use or sale of an alcohol product.

1.9. "All Other Revenue" has the meaning given such term in Section 10.1.2 herein.

1.10. "Alta" means Alta Bicycle Share, Inc., an Oregon corporation.

1.11. "Alta Stock Purchase Agreement" means that certain stock purchase agreement, dated as of October [XXX], 2014, among Bikeshare Holdings and the stockholders of Alta, pursuant to which Bikeshare Holdings will acquire all of the outstanding shares of Alta.

1.12. "Ancillary Station" shall mean any Station that:

1.12.1. has fewer than 15 Docks; or

1.12.2. is not accessible to the public 24 hours per day, 365 days per year; or

1.12.3. does not have a 24 hour a day point of payment terminal, or 24 hour payment location associated with the Station, within 200 feet of the Station; or

1.12.4. Is not fully available to all Program members for Bicycle docking and undocking at all times, periods of Station Outage excepted.

1.13. "Applicable Interest Rate" in effect at any date shall mean the prime rate as most recently published in the Eastern edition of the Wall Street Journal on or prior to such date plus 3%.

1.14. "Back-end Software" designates all Software components of the central application provided by Vendor and stored on the servers of Vendor, used for operation of the Vendor Equipment, and accessible online from a remote location using the Hosted Infrastructure.

1.15. "Bankruptcy Code" means the United States Bankruptcy Code.

1.16. "Bicycle" shall mean a device as further described in Appendix F.

1.17. "Bicycle Availability" shall mean conformance with the required Bicycle Fleet Level. The Bicycle Fleet Level shall be recorded on a regular basis and will be used to determine Bicycle Availability for the month. Bicycles rented that do not impose overtime charges beginning with the 46th minute or earlier of continuous use and Bicycles that have been Wrenched in Dock for longer than 24 hours shall be omitted from measurements of Bicycle Fleet Level. If, after completion of Functional Specification Compliance Upgrades, the required Bicycle Fleet Level is not set as described in Section 2.10 herein, the default required Bicycle Fleet Level for the purposes of service levels related to Bicycle Availability shall be 97 percent of the Program Fleet.

1.18. "Bicycle Fleet Level" shall mean the number of Bicycles that are operational, on-the-street and available for public use. The required Bicycle Fleet Level shall be determined in accordance with Section 2.10 herein.

1.19. "Bicycle Maintenance" shall mean, at a minimum, that the following checks are performed on a Bicycle, with deficient elements repaired or replaced as necessary:

- 1.19.1. Check tire pressure, and add air as may be needed, to recommended Pounds per Square Inch measurement;
 - 1.19.2. Check tightness of handlebars, headset bearings, and full handlebar range of motion (left to right);
 - 1.19.3. Check tightness of seat, seat post quick-release, and see that seat post moves freely in full range of motion (up and down);
 - 1.19.4. Check brake function (front and rear);
 - 1.19.5. Check grips for wear and brake levers for tightness and damage;
 - 1.19.6. Check bell for tightness and correct function;
 - 1.19.7. Check handlebar covers for damage and instruction stickers;
 - 1.19.8. Check front basket for tightness and damage, and check bungee cord for wear;
 - 1.19.9. Check for correct gears and shifter function through all 3 gears;
 - 1.19.10. Check fenders (front and rear) for damage, and clean outside of fenders;
 - 1.19.11. Check tires (front and rear) for damage or wear;
 - 1.19.12. Check wheels (front and rear) for trueness, broken or bent spokes and hub or axle tightness;
 - 1.19.13. Check LED lights (front and rear) for function;
 - 1.19.14. Check reflectors on wheels, seat and basket, to ensure they are present, clean, and undamaged;
 - 1.19.15. Check pedals and cranks for tightness;
 - 1.19.16. Lubricate and clean chain and check chain tensioner for correct function;
 - 1.19.17. Check kickstand for correct function; and
 - 1.19.18. Take brief test ride to ensure overall correct function of Bicycle.
- 1.20. "Bicycle Shortfall" at any time shall mean the difference between the required Bicycle Fleet Level and a recording of the actual Bicycle Fleet Level at that time.
- 1.21. "Bikeshare Holdings" shall mean Bikeshare Holdings LLC, a Delaware limited liability company.

- 1.22. "Bike Station Software" designates all software components provided by Vendor, to be installed locally within the Vendor Equipment, and to be used for the operation of bike stations.
- 1.23. "Bridging" shall mean any connector that joins non-contiguous sections of Docks into a single Station.
- 1.24. "Cap Reduction Factor" has the meaning given such term in Section 3.2.5 herein.
- 1.25. "Cash Reserve Account" has the meaning given such term in Section 5.3 herein.
- 1.26. "City" shall mean The City of New York.
- 1.27. "City Property" has the meaning given such term in Section 12.1 herein.
- 1.28. "Cleaning" shall mean the best efforts of NYCBS to clean all visible dirt, ink, paint, litter, or any other substance on the Equipment. NYCBS will remove all graffiti, scratch-iti, and stickers. Visits to Stations for regular cleaning and inspection shall include removal of litter, excessive dirt, and debris from the immediate vicinity of the Station. For curb-lane Stations, this must include all areas rendered inaccessible to DSNY sweepers by the presence of the Station. In the event of a targeted and coordinated vandalism campaign, NYCBS will immediately contact DOT and provide DOT with a specific timeline for cleaning and refurbishment. Upon confirmation and approval of such timeline by DOT, relevant service levels may be adjusted.
- 1.29. "Client" refers to the agency or entity that is ultimately responsible for the implementation of a bike share program and acquires a Complete Bicycle System hereunder for operation in a designated area in Canada and the U.S, including, without limitation, a municipality, a non-profit organization designated by a municipality or a private organization (to the exclusion, for clarity, of NYCBS).
- 1.30. "Commissioner" shall mean the Commissioner of DOT, or his or her designee, or any successor in function to the Commissioner.
- 1.31. "Complete Bicycle System" means the Vendor Integrated Solution, together with components provided by NYCBS, the Client or third parties, and which together comprise a complete bike-share solution that is usable by end users;
- 1.32. "Comptroller" shall mean the Comptroller of the City, the Comptroller's designee, or any successor in function to the Comptroller.
- 1.33. "Computer Hardware" electronic component that provides information or controls a mechanical device and that is controlled by local or remote software.
- 1.34. "Contract Year" shall have the meaning given in Section 10.1.3 hereof.
- 1.35. "Control" or "Controlling Interest" in a Person, in the assets comprising the Program, in NYCBS or in this Agreement shall mean working control in whatever manner exercised,

including, but not limited to, working control through ownership, management, or negative control (provided, however, that negative control shall not be interpreted to include negative covenants that may be set forth in financing documentation or similar provisions that may be set forth in financing documentation), as the case may be, of such Person, the assets comprising the Program, NYCBS or this Agreement. A rebuttable presumption of the existence of Control or a Controlling Interest in a Person, in the assets comprising the Program, in NYCBS or in this Agreement shall arise from the beneficial ownership, directly or indirectly, by any Person, or group of Persons acting in concert (other than underwriters during the period in which they are offering securities to the public), of 10% or more of such Person, the assets comprising the Program, NYCBS or this Agreement. "Control" or "Controlling Interest" as used herein may be held simultaneously by more than one Person or group of Persons.

1.36. "CPI" shall mean the Consumer Price Index for the New York-Northern New Jersey-Long Island area, as measured by the Consumer Price Index for All Urban Consumers, as published from time to time by the Bureau of Labor Statistics, U.S. Department of Labor.

1.37. "Deactivation" shall mean, at a minimum, shut-down of Kiosk (or display of messaging on Kiosk screen indicating that Station is out of service) removal of all bicycles present, installation of physical barriers on all Docks that prevent docking of Bicycles, and designation of the Station as "Out of Service" on the Program website, app, and all other real-time data sources. A Deactivation event is not over until the Station has been reactivated.

1.38. "Default" has the meaning given such term in Section 20.2.2 herein.

1.39. "De-Installation" shall mean, at a minimum, (i) the temporary or permanent full removal of the Station and its associated Street Treatments, and, (ii) the designation of the Station as "Out of Service" on, or removal of the Station from, the Program website, app, and all other real-time data sources. A De-Installation event is not over until the Station has been Re-Installed.

1.40. "Day" shall mean a calendar day, unless otherwise stated herein.

1.41. "Demand Analysis" shall mean analysis of the Program Area using a computer model developed by DOT. The model created may use inputs including, but not limited to taxi data, transit data, population data, land use data, Bicycle facility data, and web score from crowdsourcing Bicycle share map data.

1.42. "Deposited Material" has the meaning given such term in the definition of Escrow Agreement.

1.43. "Discovery" shall mean the detection, in any manner, by any NYCBS employee, of any defect in the Equipment or Program. Upon detection, such a defect shall be immediately recorded in the NYCBS database for remediation.

1.44. "DOT Discretionary Request" shall mean any De-Installation and/or Re-Installation or Station Adjustment requested by DOT that meets all of the following criteria:

- 1.44.1. The request is not related to Public Works, Other Special Events, or Public Safety Emergencies;
 - 1.44.2. The request is not related to changes to a Site, as a consequence of Public or Private Construction or Public Works, which preclude the Station from continuing to occupy such Site;
 - 1.44.3. The request is not subject to fees as described in Appendix C; and
 - 1.44.4. The affected Station is located on property controlled by DOT.
- 1.45. "Docks" shall mean the locking mechanisms contained on a Station that are designed to receive a Bicycle for locked storage, as further described in Appendix F.
- 1.46. "DOT" or the "Department" shall mean the Department of Transportation of the City, its designee, or any successor thereto.
- 1.47. "DOT Siting Criteria" shall have the meaning set forth in Appendix B.
- 1.48. "Effective Date" shall mean the later of the following two dates:
- 1.48.1. the date on which the closing occurs under the Alta Stock Purchase Agreement, including for the avoidance of doubt the termination of the related escrow arrangements under which the certificates representing the outstanding shares of Alta stock have been released to Bikeshare Holdings and the purchase price therefor has been released to the Alta stockholders, and
 - 1.48.2. the date as of which each of the following has occurred:
 - (a) the VENDEX filings made on behalf of NYCBS and its affiliated entities and related individual have been approved by the City of New York, and
 - (b) the date as of which this agreement is registered pursuant to section 328 of the City's Charter.
 - (c) the Office of the Comptroller of the City of New York has registered this agreement.
- 1.49. "Equipment" shall include Stations, Kiosks, Docks and Bicycles, either individually or in any combination thereof.
- 1.50. "Escrow Agreement" means an escrow agreement among Vendor, NYCBS and DOT, having terms consistent with industry standards, that shall provide that:
- 1.50.1. NYCBS or DOT may obtain, upon the occurrence of one or more Release Conditions (as hereinafter defined):

- (a) the proprietary Source Code of Vendor in relation to all Vendor Software (including any updates, upgrades, and new releases made generally available to Vendor's customers),
 - (b) design documents, specifications, bill of materials, manufacturing documents, data, and any other information necessary or useful to manufacture, support, and maintain Vendor Equipment, proprietary parts, and non-proprietary spare parts,
 - (c) all other documents, files, data, and information necessary to provide Vendor Bike Share Technology to DOT, (collectively, the "Deposited Material"); and
 - (d) a limited non-exclusive license to use the Deposited Material strictly for the purpose of operating the NYCBS' Complete Bicycle System under and during the term of this agreement.
- 1.50.2. the Deposited Material shall be released to NYCBS and/or DOT only if one or more of the following occurs (each a "Release Condition"):
- (a) Vendor ceases its operations in the normal course or refuses to or ceases to support any Vendor software for a period of thirty (30) consecutive days, other than through a corporate reorganization, a sale or an assignment of assets where the purchaser or the assignee assumes the obligations of Vendor hereunder; or
 - (b) Vendor is declared bankrupt or insolvent by a final judgment, files a notice of intention or a proposal pursuant to the Bankruptcy and Insolvency Act (R.S.C., 1985, c. B-3), makes a general assignment for the benefit of its creditors, or a general receiver or trustee in bankruptcy is appointed over Vendor's business or property.
- 1.50.3. the Release Conditions described herein will not result in the release of the Deposited Material:
- (a) in the case it involves court proceedings, if Vendor has not received due notice of the proceedings; or
 - (b) if Vendor duly challenges those proceedings within the delays set forth by the applicable statutes or
 - (c) while Vendor remains in a position to offer and maintain the Back-end Software and the Bike Station Software for the NYCBS system in accordance with the terms of the Bike Rental System Marketing and

Supply Agreement between Vendor and NYCBS and the relevant supply contract.

- (d) if NYCBS owes any fees to Vendor under a supply contract applicable to the provision of Vendor Bike Share Technology to DOT.

1.50.4. to the extent that Vendor is still in operation upon the release of any Deposited Material in accordance with the terms of the Escrow Agreement, then at the request of DOT, Vendor shall negotiate in good faith with DOT a SOW setting forth Vendor Professional Services to be provided for the purpose of training DOT in the use of the Deposited Material, at the then current rate charged for Vendor Professional Services.

1.51. "Escrowed Elements" has the meaning given such term in Section 2.6 herein.

1.52. "Event of Force Majeure" has the meaning given such term in Section 20.3 herein.

1.53. "Federal Court" has the meaning given such term in Section 26.30 herein.

1.54. "For Profit and Political Special Events" shall mean temporary events permitted by DOT or the New York City Department of Parks and Recreation that:

1.54.1. Have entry fees for participation (e.g., road races, cycling tours); or

1.54.2. Have the purpose of selling products (e.g., street fairs, food festivals, holiday fairs, Tribeca Film Festival, film shoots); or

1.54.3. Have title sponsor (e.g., Macy's Thanksgiving Day Parade, Rockefeller Center Tree Lighting); or

1.54.4. Are political events (e.g., national political conventions, UN General Assembly, Presidential motorcades/routes where Stations may need to be Deactivated or De-Installed for public safety reasons are not included in this category).

1.55. "Functional Specifications" shall mean the functional specifications described in Appendix F hereto.

1.56. "Functional Specification Compliance Upgrades" means the installation of hardware and software upgrades to meet the requirements and completion dates of the Functional Specifications of the Equipment and Software as set forth in Appendix F.

1.57. "Go Live Date" shall mean May 27, 2013.

1.58. "Grid" shall mean a map, attached as Exhibit E, with 1,000-foot by 1,000-foot grid laid over the full extent of New York City to be used as the basic planning guideline for ensuring that Station Locations adhere to the Program Density.

1.59. "Grid Square" shall mean any one of the 1,000-foot by 1,000-foot squares that compose the Grid.

1.60. "HCM Pedestrian Level of Service" shall mean a level of service (LOS) derived from an analysis conducted using the methodologies presented in the Highway Capacity Manual (HCM) and the CEQR Technical Manual, as amended. Guidelines should be followed in identifying and mitigating pedestrian impacts.

1.61. "Hosted Infrastructure" means the hosting of the Back-end Software and associated network access designed and controlled by Vendor, which renders the Back-end Software accessible to NYCBS, Client and/or its end users;

1.62. "Infill" shall mean the placement of additional Stations within the Program Area in order to address unmet demand or community request.

1.63. "Initial Term" has the meaning given such term in Section 2.2 herein.

1.64. "Institutional Lender" shall mean any savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually or in a fiduciary capacity), an insurance company organized and existing under the laws of the United States or any state thereof, a religious, educational or eleemosynary institution, a federal, state or municipal employee's welfare, benefit, pension or retirement fund, any governmental agency or entity insured by a governmental agency, a credit union, trust or endowment fund or any combination of Institutional Lenders; provided, that each of the above entities shall qualify as an Institutional Lender only if it shall (a) be subject to service of process within the State of New York and (b) have a net worth of not less than \$50,000,000 and net assets of not less than \$250,000,000.

1.65. "ISO" has the meaning given such term in Section 19.2.1 herein.

1.66. "Kiosk" shall mean the payment terminal that provides Bicycle rental instructions, contains payment equipment (e.g., a credit card device), and includes all other physical means necessary for the rental of Bicycles, as further described in Appendix F.

1.67. "Landmarks" shall mean the Landmarks Preservation Commission of the City or any successor thereto.

1.68. "Modified Proposed Program Terms" has the meaning given such term in Section 3.4 herein.

1.69. "Moving Lane" shall mean a roadway lane specifically designed for the movement of traffic. It does not include a lane designed for the parking of vehicles, loading/unloading, or pick-up/drop-off locations.

1.70. "Never-Die Map" shall mean the division of the Program Area into sectors containing approximately 10 Stations each for purposes of assessing service levels related to Station

Outages. Sector boundaries will be as contiguous and compact as practicable, and the total number of sectors will not be less than 10 percent of the number of installed Stations. DOT and NYCBS may adjust the Never-Die Map upon mutual agreement.

1.71. "Never-Die Station" shall mean one Station in each sector of the Never-Die Map that will be held to the service level described in Appendix A, SLA# 10. DOT and NYCBS may adjust the roster of Never-Die Stations upon mutual agreement. In the event that a Never-Die Station is Deactivated or temporarily De-Installed for a period of 15 business days or longer, another Station in the same sector of the Never-Die Map will be designated as a temporary Never-Die Station.

1.72. "New York State Court" has the meaning given such term in Section 26.30 herein.

1.73. "Notice to Cure" shall have the meaning set forth in Section 20.2 herein.

1.74. "Notification" shall mean all communications including, but not be limited to, all information provided by DOT or 311 to NYCBS about a specific defect or problem concerning the Program, Equipment or operations of the Program. Such Notifications may include any written document, electronic communications or transferred phone calls from 311. Notification may also include, but not be limited to, information provided to NYCBS by the general public via the NYCBS call center(s), in writing or by electronic communications.

1.75. "NYCBS" shall mean NYC Bike Share LLC, and all of its successors and assigns as authorized under Section 23.1 herein.

1.76. "Operable Dock" shall mean a Dock that can both rent and receive bicycles from all Program users and is not physically obstructed in a manner that would prevent such use.

1.77. "Operable Station" shall mean a Station from which a short-term user can proceed completely through the terminal user interface and receive authorization to check out a Bicycle, and at which at least 90 percent of all installed Docks are Operable Docks.

1.78. "Other Special Events" shall mean all other temporary events permitted by DOT or the New York City Department of Parks and Recreation (e.g., heritage or cultural events including but not limited to the St. Patrick's Day Parade, West Indian Day Parade, Heritage of Pride Parade) not defined as For Profit and Political Special Events.

1.79. "Parties" shall mean the City and NYCBS, and "Party" shall mean either of them.

1.80. "Person" shall mean any human being or any association, firm, partnership, joint venture, corporation, limited liability company or other legally recognized entity, whether for profit or not for profit, but it shall not mean the City. "Parties" has the meaning given such term in the preamble to this Agreement.

1.81. "Phase I" has the meaning given such term in Section 3.1 herein.

- 1.82. "Phase II" has the meaning given such term in Section 3.2 herein.
- 1.83. "Phase III" has the meaning given such term in Section 3.3 herein.
- 1.84. "Plans and Specifications" shall mean the plans, specifications, and designs for the Equipment as set forth in Appendix F.
- 1.85. "Prior Agreement" shall mean the Agreement for Bike Share Program between the City of New York, Department of Transportation and NYCBS, dated as of April 13, 2012.
- 1.86. "Private Construction on Public or Private Property" shall mean all instances where a private property owner (or their contractor) or a private contractor on public property receives a DOT permit for work.
- 1.87. "Program" shall mean Equipment, Sites, website, Backend Software and Computer Hardware and the Services.
- 1.88. "Program Area" shall mean that portion of New York City labelled as Phase I and Phase II on the Program Expansion Map, provided that, if, as and when, from time to time, Sites are installed outside the areas labelled Phase I and Phase II on the Program Expansion Map, the definition of Program Area shall be deemed expanded to include such additional areas of New York City where such Sites have been installed.
- 1.89. "Program Expansion Map" shall mean the Initial Program and Program Expansion Map attached as Exhibit B.
- 1.90. "Program Fleet" shall mean the total number of Bicycles required to serve the Program Area as specified in Section 3 herein.
- 1.91. "Program Name" has the meaning given such term in Section 12.2 herein.
- 1.92. "Program Density" shall mean the distribution of Stations within the Program Area. The minimum target density within the Program Area is twenty-eight (28) Stations per square mile; this minimum target must be achieved by distributing Stations evenly throughout the Program Area to the extent practicable (i.e., areas of higher than minimum Density cannot be averaged against areas below the minimum Density). Ancillary Stations shall not be counted towards calculations of the Program Density.
- 1.93. "Prohibited Advertising" shall mean advertising or sponsorship that is false or misleading, that promotes unlawful conduct or illegal goods, services or activities, or that is otherwise unlawful or obscene as determined by DOT, including, but not limited to, advertising that constitutes the public display of offensive sexual material in violation of the City's Penal Law 245.11.

1.94. "Prohibited Person" shall mean any Person who is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with DOT or the City, unless such default or breach has been waived in writing by DOT or the City, as the case may be; or has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years; or has been convicted of a felony in the past ten (10) years; or has received formal written notice from a federal, state or local government agency or body that such Person is currently under investigation for a felony criminal offense; or has received notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in court or other appropriate forum.

1.95. "Proposed Program" has the meaning given such term in Section 3.4 herein.

1.96. "Proposed Program Terms" has the meaning given such term in Section 3.4 herein.

1.97. "Public Design Commission" or "PDC" shall mean the Public Design Commission of the City, or any successor thereto.

1.98. "Public Safety Emergency" shall mean an instance when:

1.98.1. Program Equipment is damaged or in an unsafe state so as to cause an immediate danger to the public; or

1.98.2. Circumstances or situations immediately surrounding Program Equipment create an imminent danger to the public; or

1.98.3. The area around a Station becomes unsafe or is required by NYPD or other emergency responders in order to respond to an event.

1.99. "Public Works" shall mean all instances where the City or its contractors are undertaking construction, maintenance, or repairs of public utilities, or other public improvements.

1.100. "Rebalancing" shall mean actions taken by NYCBS to prevent or rectify Station Outages.

1.101. "Related Guarantee" means the guarantee in the form of Exhibit C hereto.

1.102. "Recognized Lender" shall mean the holder of a Recognized Loan.

1.103. "Recognized Loan" shall mean any loan which is: (i) held by an Institutional Lender (or a corporation or other entity wholly owned by an Institutional Lender); and (ii) complies with the provisions of Section 25 herein.

1.104. "Release Condition" has the meaning given that term in the definition of Escrow Agreement.

1.105. "Replenishment Period" has the meaning given such term in Section 17.8 herein.

- 1.106. "Ridership Revenue" has the meaning given such term in Section 10.1.1 herein.
- 1.107. "SDK" means API's, toolkits, and data feed, including any updates, upgrades, modifications or improvements thereto necessary or useful for NYCBS to develop End User mobile applications or End User oriented web portals.
- 1.108. "Security Fund" shall have the meaning given in Section 17.1 herein.
- 1.109. "Services" shall mean the installation, operation and maintenance of the Stations and the acquisition, placement, maintenance and rental to users of the Bicycles.
- 1.110. "Site" shall mean a designated area on publicly or privately owned real property, which area contains a Station that conforms to the siting criteria in Appendix B.
- 1.111. "Site Plan" shall mean a scaled plan view of the Site, illustrating existing surface features and proposed improvements and meeting the requirements set forth in Appendix B.
- 1.112. "Software" shall means the software and the Equipment it runs on required to operate the Equipment on a basis consistent with the requirements of the Functional Specifications.
- 1.113. "Source Code" means the annotated source code for an item of software, in human readable form, which, when compiled, will produce the object code version of such software, including, without limitation, all encryption code; system diagrams, documentation, and flowcharts; algorithm and subroutine descriptions; linking information; memory and overlay maps; name and/or label conventions; program narrators; source code listings; build tools; scripts for source code; and other documentation and commentary reasonably necessary for a reasonably competent computer programmer to compile, install, maintain, service, use, modify, and enhance such software without the aid of any third party.
- 1.114. "Sponsor Property" has the meaning given such term in Section 12.2 herein.
- 1.115. "Sponsorship" shall mean an arrangement pursuant to which, in connection with a payment or payments that will be used to help defray the costs of installing or operating the Program, the entity or entities contributing such payment or payments is acknowledged by the Parties for such contribution.
- 1.116. "Station" shall mean a Kiosk and a variable number of Docks and, when applicable, Street Treatment(s) and Street Markings.
- 1.117. "Station Defects" shall be divided into the following four classes for the purposes of Appendix A, SLA #3:
- 1.117.1. "Defects Impacting the Area Surrounding Station" shall mean conditions that cause disruption to the safety or usability of the Station and its immediate vicinity. Examples include, but are not limited to: Station is shifted or

misplaced, shattered Kiosk glass, exposed wiring, detached wheel stops, prominent, widespread or offensive graffiti, large gaps between plates (wider than approximately 1.5 inches), trash piling outside of the Station envelope, flattened or detached delineators, misplaced Street Treatments, missing Street Treatments, sharp or jagged edges on damaged Program components.

1.117.2. "Defects Impacting the Usability of Entire Station" shall mean conditions that affect the availability or use of Station-wide function(s), or more than five Docks. Examples include, but are not limited to: broken touchscreen, Kiosk cannot process requests, multiple dead or unusable Docks/cassettes, disabled credit card reader, printer broken/out of paper.

1.117.3. "Defects Impacting the Usability of Specific Dock(s)" shall mean conditions that affect the availability or use of five or fewer Docks. Examples include, but are not limited to: dead/defective cassettes, deformed sabots, foreign object chained to Dock, Docks taped off, Dock lights non-functional.

1.117.4. "Defects Impacting the Appearance of Station" shall mean conditions that affect the aesthetics of the Station itself, but do not significantly affect the surrounding area. Examples include, but are not limited to: small or inoffensive graffiti, stickers, minor plate separation, minor litter accumulation, excessively chipped or peeled paint, crumpled or damaged posters (exclusive of broken glass), peeling or damaged sponsor decals, missing end caps, missing posters or Station Locator signage.

1.118. "Station Locators" shall mean the text-based signage posted on every Station, indicating the location of that Station.

1.119. "Station Outage" shall mean an instance when either:

1.119.1. There are no empty, Operable Docks available at a Station;

1.119.2. There are no Bicycles available for use at a Station. (Bicycles Wrenched in Docks are not considered as available for use.)

1.120. "Station Usage" shall mean the average daily count of trip starts and ends by members at a Station in the preceding quarter, excluding days that the Station is Deactivated or temporarily De-Installed. Station Usage figures should be updated no more than 10 days after the end of the quarter.

1.121. "Street Marking(s)" shall mean thermoplastic paint markings on the pavement for the express purpose of demarcating a Station.

1.122. "Street Treatments shall mean all bollards, delineators, granite blocks, wheel stops, and other three-dimensional objects used to protect or demarcate a Station.

1.123. "Term" has the meaning given such term in Section 2.2 herein.

1.124. "Tobacco Advertising" shall mean advertising or sponsorship that bears a health warning required by federal statute, the purpose or effect of which is to identify a brand of a tobacco product (any substance that contains tobacco, including, but not limited to, cigarettes, cigars, pipe tobacco and chewing tobacco), a trademark of a tobacco product or a trade name associated exclusively with a tobacco product, or to promote the use or sale of a tobacco product.

1.125. "Vendex" shall mean the City's Vendor Information Exchange System, or any successor system established pursuant to any applicable law, rule or regulation.

1.126. "Vendor" shall mean the company selected by ABS with input from NYCDOT to provide the Vendor Integrated Solution, Vendor Professional Services and Vendor Equipment

1.127. "Vendor Bike Share Technology" means the Vendor Integrated Solution and any other similar technology, software, service, and equipment for bike share systems offered by Vendor (to the exception of the Vendor branded mobile application, but including any white-label mobile application developed by Vendor).

1.128. "Vendor Equipment" means any and all hardware and equipment to be provided by Vendor to NYCBS or Client under each NYCBS supply contract, the whole as designated in the relevant PO, including, but not limited to, terminal, bike docks, slabs, boards, cables, bike keys, and any components and other piece of physical infrastructure provided by Vendor.

1.129. "Vendor Integrated Solution" means collectively the Vendor Equipment; the Back-end Software; the related Hosted Infrastructure; the Bike Station Software, any member section of the public Client web site to the extent provided by Vendor, and any Accessory Software, to be provided by Vendor to NYCBS or Client.

1.130. "Vendor Professional Services" shall mean all professional services, including but not limited to training and development services, rendered by Vendor pursuant to any supply agreement;

1.131. "Vendor Software" designates collectively the Back-end Software, the Bike Station Software and, if applicable, SDK or any Accessory Software provided by Vendor to NYCBS or the Client.

1.132. "Wayfinding Elements" shall mean the maps posted on every Station, showing the location of each Station.

1.133. "Wrench" shall mean the action of locking a Bicycle in a Dock such that it cannot be released by Program users pending action by NYCBS.

1.134. "Year" shall mean any period of 365 days.

SECTION 2

SCOPE OF SERVICES

- 2.1. NYCBS shall provide the Services in conformance with the terms of this Agreement.
- 2.2. Except as otherwise provided herein:
 - 2.2.1. the initial term of this Agreement shall (unless earlier terminated pursuant to the provisions of this Agreement) run until and including May 26, 2019 (the "Initial Term").
 - 2.2.2. the Initial Term may be extended by DOT for up to two (2) additional terms of five (5) Years each, at DOT's option, by providing a written renewal notice to NYCBS at least one (1) Year before the end of the then-current Term (as extended, the "Term"); provided however that, if DOT shall not theretofore have terminated this Agreement pursuant to Section 20 herein, DOT shall exercise the first option to extend the Term for five (5) additional years when NYCBS shall have installed a total of 4,000 additional Bicycles for a total Program Fleet of 10,000 Bicycles and associated Stations in accordance with Appendix B after the Effective Date and on or prior to the Agreed Phase II Completion Date and shall exercise the second option to extend the Term for five (5) additional years when NYCBS shall have installed a total of 6,000 additional Bicycles for a total Program Fleet of 12,000 Bicycles and associated Stations in accordance with Appendix B after the Effective Date and on or prior to the Agreed Phase II Completion Date (and, to the extent DOT is thus obligated to exercise any such option but fails to do so, such option shall be deemed to have been exercised).
- 2.3. NYCBS shall deliver to DOT on the Effective Date all of the following items and documents. The City agrees that, upon request by Bikeshare Holdings, the City shall confirm to Bikeshare Holdings whether each such item and document so delivered by NYCBS is on its face in compliance with the terms and conditions of this Agreement and that NYCBS has fulfilled its contractual obligations under this Section 2.3, provided, however, that this acknowledgement and agreement in no way releases any of NYCBS' ongoing obligations with respect to such items under this Agreement:
 - 2.3.1. evidence as described in Section 19.8 herein of NYCBS's insurance coverage;
 - 2.3.2. an opinion of NYCBS's counsel dated as of the Effective Date and executed by NYCBS's counsel, in a form reasonably satisfactory to the City, that this Agreement has been duly authorized, executed and delivered by NYCBS and is a binding obligation of NYCBS;

- 2.3.3. an IRS W-9 form, certifying NYCBS's tax identification number;
 - 2.3.4. organizational and authorizing documents of NYCBS;
 - 2.3.5. fully completed and up-to-date questionnaires in connection with Vendex, which have received a favorable review by the City;
 - 2.3.6. a certificate of the managing member of Bikeshare Holdings that the transactions contemplated by the Alta Stock Purchase Agreement have closed into escrow; and
 - 2.3.7. an executed copy of the Related Guarantee in the form of Exhibit C hereto.
- 2.4. All Equipment shall at all times be the property of NYCBS, subject to the provisions of Section 20 herein and subject to the lien thereon by any Recognized Lender.
- 2.5. NYCBS will provide all of the Equipment and Software required to operate the Program, which, from and after the completion dates as of which the Functional Specification Compliance Upgrades have been completed, shall meet the requirements of the Functional Specifications as provided in Section 6.1 herein. NYCBS will be responsible for procuring all of the relevant licenses and rights to use the Equipment and Software to operate the Program.
- 2.6. NYCBS shall not commence installation of the Functional Specification Compliance Upgrades until the Escrow Agreement shall have been agreed among Vendor, NYCBS and DOT and the Escrowed Elements shall have been deposited in escrow under the Escrow Agreement. The "Escrowed Elements" shall mean the complete production Software code for remote (data center based) and local system components (Kiosks and Docks), installation instructions and a "run book" that is required to install and operate the remote Software System in a new data center and install the Software required to operate Stations. The Escrow Agreement shall provide that the Escrowed Elements will be updated within 20 business days after any major change or update to the Software System and at least semi-annually otherwise.
- 2.7. All data generated by the Program will be owned by NYCBS. NYCBS will grant the City a non-exclusive, royalty-free, perpetual license to use all data as set forth in Appendix F for non-commercial purposes and on a real-time basis; and the City shall have the right to grant to others a sublicense to use all such data for non-commercial purposes. The City may request an expansion of the scope of the data the use of which is licensed to the City, and NYCBS will not unreasonably withhold, delay or condition the grant of any such modification to the license, provided that the terms of any such additional license shall be subject to limitations imposed by law relating to the protection of personal data and to the terms of NYCBS's customer agreements and applicable statutes.
- 2.8. NYCBS represents and warrants that the Equipment and the Software:
- 2.8.1. are owned or validly licensed or sublicensed to NYCBS;

- 2.8.2. to the knowledge of NYCBS after reasonable inquiry, do not infringe, dilute, misappropriate, or improperly disclose any intellectual property or proprietary rights of any third party, or otherwise violate any law, rule, or regulation;
- 2.8.3. do not constitute defamation or invasion of the right of privacy.
- 2.9. De-installations, Adjustments and Deactivations shall be undertaken as set forth in Appendix C.
- 2.10. No less frequently than quarterly in the year following the Effective Date and no less frequently than annually thereafter, NYCBS will coordinate with DOT to set the Bicycle Fleet Level to account for weather, historic ridership demand and other factors in accordance with usage minimums outlined in Appendix A. Changes to required Bicycle Fleet Levels are subject to the reasonable approval of DOT on a basis consistent with Appendix A.
- 2.11. If the Commissioner determines that an emergency threat to life or property exists, then the Commissioner may, with such notice promptly provided by the City to NYCBS as is practicable given the nature of the emergency, take such action or require NYCBS to take such action as the Commissioner deems necessary to alleviate the emergency, including, but not limited to, removing, replacing, relocating, reinstalling or locking all or any portion of the Equipment and having repair and restoration work performed.

SECTION 3

PROGRAM AREA AND EXPANSION

- 3.1. For the first phase of the Program as illustrated in Exhibit B (referred to herein as "Phase I"), NYCBS installed 332 Stations and 6,000 Bicycles in the Program Area.
- 3.2. Phase II expansion.
 - 3.2.1. For the second phase of the Program (referred to herein as "Phase II"), NYCBS shall increase the number of Stations to no less than 710 and increase the number of Bicycles by 6,000 for a total Program Fleet of 12,000 Bicycles and associated Stations in accordance with Appendix B, as illustrated in Exhibit B. The installation comprising the Phase II expansion will be completed no later than the Agreed Phase II Completion Date. NYCBS shall install the first 1,000 additional Bicycles and associated Stations in accordance with Appendix B of the Phase II expansion by December 31, 2015 subject to unusual weather events and demonstrated supply chain limitations that cannot be resolved with commercially reasonable efforts. The December 31, 2015 date shall be extended to the extent of any such weather delays and supplier or permit, approval or license delays. NYCBS shall not install (as opposed to purchase and receive shipments of) any Equipment in connection with the Phase II expansion

prior to the implementation of a single Backend Software system that can operate Phase I and Phase II Stations.

- 3.2.2. In exchange for NYCBS' commitment to undertake the Phase II expansion and NYCBS's undertaking to make the payment specified in section 3.2.3 on the terms and subject to the conditions set forth therein, all defaults by NYCBS under the predecessor to this Agreement accruing prior to the Effective Date are hereby waived.
- 3.2.3. If NYCBS should fail to install 6,000 additional Bicycles and associated Stations in accordance with Appendix B as part of the Phase II expansion by the Agreed Phase II Completion Date, NYCBS shall pay to an account directed by DOT an amount equal to the product of \$30,000,000 and the Cap Reduction Factor.
- 3.2.4. "Agreed Phase II Completion Date" shall mean December 31, 2017; provided, however, that if disruptions occur in NYCBS's ability to acquire the Equipment and software that meet the Functional Specifications required to complete the Phase II expansion, then the Agreed Phase II Completion Date shall be extended beyond December 31, 2017 by an interval that NYCBS and DOT determine in good faith is reasonably required to permit NYCBS to complete the installation of 6,000 additional Bicycles and associated Stations in accordance with Appendix B in connection with the Phase II expansion.
- 3.2.5. The "Cap Reduction Factor" shall be the lesser of:
 - (a) the ratio of:
 - (i) 6,000 less the number of Bicycles installed as part of the Phase II expansion as of the Agreed Phase II Completion Date to
 - (ii) 6,000, and
 - (b) the ratio of:
 - (i) \$30,000,000 less 110% of the aggregate amount expended by NYCBS for capital expenditures for purchase and installation of Equipment and Software during the period from the Effective Date to the Agreed Phase II Completion Date, to
 - (ii) \$30,000,000.

For the avoidance of doubt, amounts expended to purchase the stock of Alta and any equipment and/or software supplier shall not be counted as "capital

expenditures for the purchase and installation of Equipment and Software," as that phrase is used in section 3.2.5(b)(i) herein.

- 3.2.6. For the avoidance of doubt, the sole consequences to NYCBS of NYCBS' having installed fewer than an additional 6,000 Bicycles as part of the Phase II expansion by the Agreed Phase II Completion Date shall be the impact on the extension of the Term as described in Section 2.2.2 and the requirement to make the payment specified in Section 3.2.3 herein, and installation of Bicycles at any such lower level shall not be a default hereunder.

3.3. Phase III Expansion.

- 3.3.1. Not less frequently than every year commencing following the conclusion of the Phase II expansion, NYCBS and DOT will meet to discuss in good faith an additional Phase III expansion (referred to herein as "Phase III"), including financial criteria, prospective expansion areas and equipment and installation costs. Any such expansions as may be agreed to between NYCBS and DOT as a result of such discussions shall be operated under and in accordance with the terms of this agreement unless expressly agreed otherwise by NYCBS and DOT.
- 3.3.2. In addition to the process for consideration of mutually agreeable expansions described in Section 3.3.1 herein, at any time and from time to time after completion of the Phase II expansion, DOT may submit in writing to NYCBS a request that the Program be expanded (a "Notice of Phase III Expansion") by the addition of Bicycles and Stations (above and beyond the number of Bicycles and Stations installed and maintained as part of the Program at the time) as described in such submission. If the City agrees to pay, and thereafter pays, the full amount that NYCBS would be required to pay to purchase and install the Equipment and Software needed for such expansion and if a number of Sites in the proposed expansion area meeting the parameters set forth in Appendix B has been approved, then NYCBS shall promptly commence, and thereafter proceed to complete, with commercially reasonable dispatch, such expansion of the Program. Any and every expansion of the Program installed as described herein shall be operated under and in accordance with this Agreement unless expressly and mutually agreed otherwise by NYCBS and DOT with respect to ownership rights with regard to equipment acquired in accordance with this Section 3.3.

3.4. During the Term of this Agreement, NYCBS shall have the exclusive right to operate the Program anywhere in the Program Area, with the exception of non-automated, non-self-service bike rental operations such as The Official Central Park Rental and Tour Company. In addition, in the event that, at any time during the Term of the Agreement, the City proposes to expand the Program beyond the Phase III expansion (the "Proposed Program"), the City shall provide written notice thereof to NYCBS setting forth the basic terms and conditions of such Proposed Program and how, if at all, such Proposed Program varies from the Program and the terms of this Agreement (the "Proposed Program Terms"). NYCBS shall have thirty (30) days to determine

whether it wishes to proceed with the Proposed Program. In the event that NYCBS wishes to proceed with the Proposed Program, NYCBS shall provide written notice to the City on or before the expiration of such thirty (30) day period and, then NYCBS and the City shall promptly enter into an agreement substantially the same as this Agreement but for such revisions as are necessary to effectuate the Proposed Program Terms. If NYCBS provides written notice to the City that it has determined not to proceed with the Proposed Program or if NYCBS fails to provide any written notice to the City by the expiration of such thirty (30) day period, NYCBS shall be deemed to have determined not to proceed with the Proposed Program. In the event that NYCBS wishes not to proceed with the Proposed Program (or is deemed to have determined not to proceed with the Proposed Program), the City may seek out a third party with which to proceed with the Proposed Program. However, if the City elects to proceed with the Proposed Program with a third party and any of the Proposed Program Terms are modified for such third party in a manner that is more favorable to the third party than the Proposed Program Terms that were provided to NYCBS (the "Modified Proposed Program Terms"), the City shall offer, in writing, such terms to NYCBS prior to entering into any agreement with such third party and NYCBS shall have ten (10) business days after receipt of the Modified Proposed Program Terms to determine whether NYCBS wishes to proceed with the Proposed Program on such Modified Proposed Program Terms. In the event that NYCBS has determined to proceed with the Proposed Program on such Modified Proposed Program Terms, NYCBS shall provide written notice to the City on or before the expiration of such ten (10) business day period and, then NYCBS and the City shall promptly enter into an agreement substantially the same as this Agreement but for such revisions as are necessary to effectuate the Modified Proposed Program Terms. If NYCBS provides written notice to the City that it has determined not to proceed with the Proposed Program on the Modified Proposed Program Terms or if NYCBS fails to provide any written notice to the City by the expiration of such ten (10) business day period, NYCBS shall be deemed to have determined not to proceed with the Proposed Program on the Modified Proposed Program Terms and the City may proceed with such Proposed Program on the Modified Proposed Program Terms with its selected third party; provided, however, that if the City does not enter into definitive documents with respect to such Proposed Program with the selected third party within one hundred eighty (180) days after the expiration of the above-described ten (10) business day period, such Proposed Program, even though previously rejected (or deemed to be rejected) by NYCBS shall be resubmitted to NYCBS for review pursuant to the terms of this Section 3.4. Furthermore, each Proposed Program shall be subject to the terms and conditions of this Section 3.4.

SECTION 4

SITING

4.1. NYCBS and DOT will work together in a community engagement and outreach process, with regard to the siting of Stations, which process will include, but not be limited to, presentations and other outreach efforts to community boards, elected officials, and other members of the City's local community, as set forth in Appendix B.

4.2. Concurrently with the community engagement and outreach process NYCBS will work with DOT to identify viable Sites. Upon DOT approval of the Sites, NYCBS shall provide a Site plan and revised Site plan(s) as required for each approved Site in such a manner that allows for reasonable time for DOT review and approval (such Site plans to include all information reasonably deemed necessary by DOT). Actual installation at and use of each such site location shall be subject to DOT's review and approval in accordance with Appendix B.

4.3. The Parties acknowledge that change in circumstances including but not limited to street conditions may require re-siting of certain Sites. In such events, the new Site shall follow the process set forth in Sections 4.1 and 4.2 herein.

4.4. If despite cooperation of NYCBS with the community engagement and outreach process pursuant to Section 4.1 herein and with the Site identification process pursuant to Section 4.2 herein, and despite timely submission by NYCBS of all the materials required to be submitted by NYCBS as provided in Sections 4.2 and 4.3, final approval of the number of Sites required to complete the Phase II expansion does not occur as of a date that allows NYCBS, acting with reasonable dispatch, a reasonable time within which to install the Equipment required to meet the completion dates set forth in Section 3.2, then (a) the completion dates set forth in section 3.2 herein shall be extended to reflect any reasonably necessary additional period required by NYCBS to meet the completion obligations described in Section 3.2 herein, and (b) the credits shall become available to NYCBS and applied as provided in Section 4.5 herein. If the anticipated rolling site review, approval and installation process has proceeded at a relatively even pace generally consistent with meeting applicable Section 3.2 deadlines, and assuming that NYCBS has met its cooperation and timeliness obligations described in the preceding sentence, the 'reasonable time' referred to in the preceding sentence with respect to the final group of installations to be installed to meet a particular Section 3.2 deadline would be 90 days prior to such deadline.

4.5. As part of the Phase II expansion, NYCBS will be required to put a Station in every whole Grid Square (or in an equivalent array) excepting any Grid Squares omitted in accordance with Appendix B, within the Phase II portion of the Program Area as shown in Exhibit B, up to a total of 378 Stations. If fewer than 378 Sites in the Phase II expansion area have been approved by DOT on any September 30 commencing with September 30, 2017, the Parties will meet as promptly as practicable following each such September 30, to discuss the "Grid Square Shortfall Number," defined as the number of whole Grid Squares in the Phase II expansion area as of each such September 30 as to which (i) no Site approval has been given by DOT (an "Empty Grid Square"), or (ii) no Site approval has been given by DOT for an additional Station in lieu of an Empty Grid Square in its vicinity, with permitted exceptions per the Siting process described in Appendix B. The Grid Square Shortfall Number as of any September 30 cannot exceed 378 minus the total number of Sites approved by DOT in the Phase II expansion area as of such September 30. Based on the Grid Square Shortfall Number for each September 30 commencing with September 30, 2017, NYCBS will be entitled to the following annual relief:

- 4.5.1. for a Grid Square Shortfall Number in the 5–50 range, NYCBS will be entitled to a credit of \$10,000 times the Grid Square Shortfall Number.
- 4.5.2. for a Grid Square Shortfall Number above 50, NYCBS will be entitled to a credit equal to the credit available under Section 4.5.1 corresponding to a Grid Square Shortfall Number of 50 plus a credit of \$20,000 times the excess of the Grid Square Shortfall Number over 50.
- 4.5.3. for a Grid Square Shortfall Number above 100 as of December 31, 2018, NYCBS will get one five-year renewal option exercised by DOT.
- 4.5.4. for a Grid Square Shortfall Number above 100 as of December 31, 2019, NYCBS will get all renewal options exercised by DOT, and relief from further obligations hereunder to expand.

Credits to which NYCBS becomes entitled under this Section 4.5 will be applied against all amounts otherwise owed to DOT under Section 10 herein. Such credits will accrue interest at the Applicable Interest Rate in effect from time to time from the date generated until the date applied pursuant to the preceding sentence. To the extent that the amount of such credits and interest accrued thereof exceeds the amounts against which such credits are to be applied, the unused balance of such credits will roll forward and will be applied against amounts that thereafter become due and owing to DOT under Section 10 herein.

4.6. The design of the Equipment used or installed pursuant to this Agreement shall be in compliance with all applicable laws, rules and regulations of the City and shall be subject to the approval of the Public Design Commission and, to the extent required by law, of Landmarks. NYCBS shall obtain the approval of the Public Design Commission and, to the extent required by law, of Landmarks. NYCBS shall submit an application signed by DOT (which application DOT shall sign in a form reasonably acceptable to DOT) to the Public Design Commission and, to the extent required by law, to Landmarks, for their review and approval. In the event that any changes to the Plans and Specifications are required by the Public Design Commission or by Landmarks in connection with granting their approvals of the Plans and Specifications, NYCBS shall make such changes as are required to obtain such approval. Following such approval, the Plans and Specifications as approved shall become the final Plans and Specifications referred to in this Agreement and shall become the final Plans and Specifications used to manufacture the Equipment.

4.7. Before using or installing any Equipment, NYCBS shall obtain all necessary permits, authorizations, approvals, consents, licenses, and certifications required for the Equipment, including:

- 4.7.1. Those that are required pursuant to all applicable City laws, rules and codes that are related to materials and construction and to all applicable Sections of the building, plumbing and electrical codes of the City;

- 4.7.2. All permits, authorizations, approvals, consents, licenses and certifications required by DOT, Landmarks and the Public Design Commission, and by any other agency of the City with jurisdiction over the property on which the Equipment is to be located;
 - 4.7.3. Any necessary permits, authorizations, approvals, consents, licenses, and certifications required pursuant to any applicable state and federal laws, rules, regulations and policies, writs, decrees and judgments; and
 - 4.7.4. Any necessary permits, authorizations, approvals, consents, licenses and certifications from Persons to use a building or other private property, easements, poles, and conduits.
- 4.8. All DOT permit fees shall be waived by DOT.
- 4.9. NYCBS shall make staff available to represent itself and to assist DOT during any informal or formal public review processes, including presentations to community boards, review by the Public Design Commission or by Landmarks, or any public hearings regarding the Program.
- 4.10. NYCBS shall place or install all Equipment in such a manner to prevent any damage to any sidewalk or distinctive pavement. To the extent any such damage occurs and upon notification by DOT, NYCBS shall repair any such damage no later than 72 hours after occurrence. If for some reason work cannot be completed within this time period, NYCBS will submit an acceptable work plan and schedule to the DOT.
- 4.11. In connection with the installation, operation, and maintenance of any and all Equipment, NYCBS shall take measures to protect any and all structures belonging to the City and all designated landmarks, structures and pavement, including distinctive pavement, from damage that may be caused to such landmarks, structures and pavement, including distinctive pavement, as a result of the installation, operation or maintenance performed thereon by NYCBS. NYCBS agrees that it shall be liable to replace or repair and restore to its prior condition (normal wear and tear excepted), in a manner as specified by the City, any landmarks, structures, pavement, including distinctive pavement, or any part of the property of the City that may become disturbed or damaged as a result of any work thereon by NYCBS pursuant to this Agreement, excluding normal wear and tear.
- 4.12. With the exception of affordability memberships, all services, programs or memberships or other arrangements offered by NYCBS to its or Bikeshare Holdings' affiliated entities shall be available for purchase to all entities and all members of the public at the same rates or fees and subject to the same terms; provided, however, that this Section shall not apply to discounts offered to Program Sponsorship entities and their customers except for any NYCBS or Bikeshare Holdings affiliated entities.

SECTION 5

SERVICE

5.1. NYCBS shall ensure, subject to Events of Force Majeure, that the Program, at a minimum, is fully operational at all Stations consistent with service level commitments as set forth in Appendix A, 24 hours per Day, seven Days per week, every Day of each Year, during the Term.

5.2. NYCBS shall operate the Program as set forth in the preceding Section 5.1 such that the service levels set forth in Appendix A are fully met.

5.3. NYCBS shall maintain throughout the Term a cash reserve account in amount not less than \$2 million dollars (the "Cash Reserve Account") to be used solely for the purpose of funding any temporary cash flow shortfalls in the operation of the Program (i.e. excess of cash needed to fund Program operations over cash revenues available from the operation of the Program). Until the date on which the Program is generating profit adequate to fund the Cash Reserve Account, an undistributed principal reserve held by a Recognized Lender may satisfy, in part or in whole, the requirements of a Cash Reserve Account provided that such principal reserves are available to cover such cash flow shortfalls, if any. To the extent NYCBS is maintaining the Cash Reserve Account and, if in any year NYCBS draws funds from the Cash Reserve account, then on the next anniversary of the Effective Date, NYCBS shall deposit amounts adequate to restore the balance of the Cash Reserve Account (taking into account any amounts held in the undistributed principal reserve described above) to \$2 million dollars.

SECTION 6

CONSTRUCTION AND TECHNICAL REQUIREMENTS

6.1. NYCBS shall in connection with the Functional Specification Compliance Upgrades bring the Equipment and Software deployed and installed as of the Effective Date into compliance with the Functional Specifications within the time frames set forth in Appendix F, and shall construct and install the Equipment and Software to be included in the Phase II expansion in a manner consistent with the Functional Specifications and each of the terms set forth in this Agreement governing construction and installation of the Equipment, as well as the DOT siting criteria as set forth in Appendix B attached hereto.

6.2. NYCBS shall have displayed (i) on each Station and each Bicycle within the Program Area, a unique identifying number that shall be tracked by NYCBS and made available to DOT, and (ii) on the handlebars of each Bicycle within the Program Area, safety instructions, including bicycle rules.

6.3. NYCBS agrees to comply with all applicable Sections of the building, plumbing and electrical codes of the City and of the National Electrical Safety Code; and, where the nature of any work to be done in connection with the installation, operation and maintenance or

deactivation of the Program requires that such work be done by an electrician or plumber, NYCBS agrees to employ and utilize only licensed electricians and plumbers. All such work shall be performed using local industry standard quality workmanship and construction methods in a safe, thorough and reliable manner and using local industry standard materials of good and durable quality; and, all such work shall be done in accordance with all applicable law, rules and regulations. If, at any time, it is determined by the City or any other agency or authority of competent jurisdiction that any part or condition of the Program is harmful to the public health or safety, then NYCBS shall promptly correct all such parts and conditions.

6.4. The Equipment and Software required to comply with the Functional Specifications, shall meet or exceed the requirements imposed by any and all laws, regulations, government standards, guidelines, manufacturing codes, rules, and the like that are applicable to the Equipment. Without limiting the foregoing, no Equipment shall be manufactured from any explosive, toxic, or otherwise inherently dangerous materials or substances, nor designed so as to constitute any greater risk than the ordinary and customary risk of comparable athletic activities to the consumer. NYCBS agrees that the Equipment shall be of a standard of quality equal to or exceeding that of the Equipment samples purchased by DOT during the procurement of the Program.

6.5. DOT shall have the right to review and approve the initial Program membership waiver and any material changes thereto, which approval shall not be unreasonably withheld.

6.6. In connection with the installation, operation, and maintenance of the Equipment, NYCBS shall use reasonable efforts to minimize the extent to which the use of the streets or other property of the City is disrupted, and NYCBS shall use reasonable efforts not to obstruct the use of such streets or property of the City, including, but not limited to, pedestrian travel. Sidewalk clearance must be maintained at all times so as to insure a free pedestrian passage in accordance any applicable laws, rules and regulations unless prior consent has been obtained from the Commissioner in his or her sole discretion.

6.7. NYCBS shall undertake appropriate efforts, in conformance with all applicable rules and regulations to insure safety and to prevent accidents at its work sites, including, if necessary, the placing and maintenance of proper guards, fences, barricades, security personnel and bollards at the curb and suitable and sufficient lighting.

6.8. NYCBS shall provide, install and maintain, during the installation of a Station, appropriate traffic markings and devices as may be reasonably requested by DOT for on-street locations.

6.9. During the period prior to final completion date specified in the Functional Specification Compliance Upgrades (December 31, 2017), in the event that either NYCBS or DOT seeks to have new Equipment or other hardware-based technology which was not previously included within the Plans and Specifications, or which is not otherwise required by law, integrated into the Program, then such Party shall make a request, in writing, to the other Party that outlines the proposed new Equipment or technologies and the proposed advantages that would result from

integration of such items into the Program. In that event, if both Parties agree, then NYCBS shall integrate the new Equipment and technology into the Program, pursuant to a schedule that is agreed upon by the Parties; and, NYCBS may request other amendments to this Agreement that are based on new Equipment or technology, including provisions to cover all related costs. After completion of the Functional Specification Compliance Upgrades, NYCBS shall be free to introduce Equipment and technology innovations so long as, after giving effect to such innovations, the Equipment continues to meet the Functional Specifications. NYCBS shall provide written notice to DOT of any proposed innovations prior to their implementation.

SECTION 7

IMPROVEMENTS, MAINTENANCE, REPAIR AND OPERATION

7.1. If NYCBS fails to comply with the maintenance and operating requirements set forth in Appendix A, then NYCBS shall pay liquidated damages calculated as set forth therein.

7.2. Notwithstanding compliance with the maintenance and operating requirements set forth in Appendix A, if the average number of Notifications per Station increases by 5% or more commencing with the second six month period after the Effective Date, during any six month period thereafter as compared to the previous six month period, the Commissioner may require NYCBS to adopt and implement such modifications to its inspection, maintenance, repair or cleaning procedures as he or she deems appropriate to ensure that the Equipment is maintained in a clean and safe condition and in good repair.

7.3. NYCBS shall establish and maintain, during the Term, prompt and efficient procedures for handling complaints received directly from the public and for handling complaints forwarded to NYCBS by the City, which procedures shall be consistent with all applicable laws, rules and regulations and the provisions of this Section. Such procedures shall be set forth in writing and copies thereof shall be maintained at NYCBS's office and shall be available to the public and the Commissioner upon request.

7.4. NYCBS shall conspicuously post a notice on each Station advising the general public that they may direct their complaints and comments to NYCBS's call center.

7.5. NYCBS shall incorporate Wayfinding Elements on each Station as directed and approved by DOT. Content for Wayfinding Elements shall be provided by DOT to NYCBS.

7.6. NYCBS shall not make changes to the design of the Stations or Bicycles without the prior approval of DOT, which approval shall not be unreasonably withheld, delayed or conditioned, and without all other necessary approvals, including but not limited to the approval of the Public Design Commission, when applicable.

7.7. NYCBS will operate a primary call center within the New York City limits that will answer a minimum of 80% of the calls each year from, at a minimum, 7am to 7pm 365 days per year. During the hours of 7pm to 7am, and for overflow call periods between 7am and 7pm,

NYCBS may route calls to another call center. Calls shall be answered in person 24 hours per Day, 7 Days per week. In addition to such call center service availability for the public, NYCBS shall have a contact person available to DOT by phone 24 hours per Day, seven Days per week.

7.8. NYCBS shall (i) record, using appropriate Software, and accompanied by appropriate notice of such recording to each caller, a random sampling of at least 10% of all complaint calls received by all call centers, (ii) diligently and promptly investigate each complaint, and (iii) retain all complaint call recordings for no more than 60 days.

7.9. NYCBS shall maintain written, accurate and complete records of all complaints, and those records shall be available to DOT through appropriate Software or, at DOT's reasonable advance request, in written form. Such records shall indicate: (i) the specific Equipment, including its identifying number and location at a specific point in time, for which the complaint was made; (ii) the type of complaint; (iii) the date and time of complaint; (iv) if the complaint is in written form (non-electronic) and the information is available, the name, address, and telephone number of the Person filing the complaint; (v) NYCBS's action to address the complaint; and (vi) to the extent applicable, the date of resolution of the complaint. All such records shall be retained by NYCBS throughout the Term. The Software shall provide DOT a means by which it can search for complaints by location or time period, and it shall produce statistical reports, at DOT's request, by type of complaint, location of complaint, Station or Bicycle and time period.

7.10. Following the Effective Date, the City may, at its option, request that NYCBS provide it with a full inventory of all Equipment, including types and numbers (per item), dates of lease or purchase, and initial condition (established as of the date of inventory). NYCBS shall, at a minimum, replace Equipment and parts pursuant to the manufacturer's warranty or as necessary throughout the Term.

7.11. NYCBS may, without incurring any liquidated damages or causing a default hereunder, (a) shut down the Program or reduce the number of Bicycles and Stations deployed and/or operating in the Program area for weather-related or other emergencies for the duration of the emergency in its reasonable discretion and (b) reduce the number of Bicycles and Stations deployed and/or operative in the Program areas as needed to implement the Functional Specification Compliance Upgrades.

SECTION 8

ADVERTISING AND SPONSORSHIP

8.1. In consideration of NYCBS's performance of its obligations under this Agreement, including provision of the Services, the City does hereby grant to NYCBS the exclusive right throughout the Term (i) to sell and place Advertising and Sponsorship acknowledgments on the Equipment, subject to the specifications, terms, reservations and restrictions of this Agreement, for the purpose of publicly identifying and associating the Program with one or more sponsors, and (ii) to collect all revenues generated by such Advertising and Sponsorship activities.

8.2. NYCBS shall obtain written approval from DOT prior to entering into each and every sponsorship agreement(s) and major marketing and advertising agreement, the decision on such approval or disapproval not to be unreasonably delayed.

8.3. NYCBS shall not install any Tobacco Advertising, or permit any Tobacco Advertising to be installed, on any Equipment. NYCBS shall not install any Prohibited Advertising, or permit Prohibited Advertising to be installed, on any Equipment. NYCBS shall not install any Alcohol Advertising on any Station within 250 feet of any school, day care center, or house of worship and NYCBS shall not permit any Alcohol Advertising to be installed on any Station within 250 feet of any school, day care center, or house of worship.

8.4. Other than a Station computer screen approved as part of the Plans and Specifications, NYCBS shall not install or permit to be installed at the Stations scrollers or electronic media (including LCD panels, electronic Advertising and Sponsorship acknowledgments), except with the City's prior consent, which may be granted or withheld in the City's discretion in each instance. Notwithstanding the foregoing, static digital advertising, utilizing a 15-second fade in/fade out as images change, will be allowed where the adjoining properties are in zones that allow commercial and/or manufacturing uses. Slow motion digital will be allowed in high density commercial districts only on a case-by-case basis. However, digital advertising will not be allowed in historic districts or adjacent to a landmark site. Other electronic media (such as "zippers") will be permitted only on a case-by-case basis and, except for backlighting of printed posters, will be subject to the applicable zoning regulations for property adjacent to the site. Audio advertising will not be permitted. Nothing herein shall be deemed to require DOT to approve trenching or hard wiring of Kiosks or Stations.

8.5. If any material displayed or placed in violation of any of provision of this Section 8 is not removed by NYCBS within 24 hours of notice from DOT, the City shall have the right to remove such material and NYCBS shall pay to the City the costs incurred in connection with such removal and for any other costs or damages incurred by the City in connection with such removal including, but not limited to, repair and restoration costs, arising out of the performance of such work.

8.6. NYCBS shall not place any Advertising or Sponsorship acknowledgment matter which is indecent, in obvious bad taste, or demonstrates a lack of respect for public morals or conduct, or which in the sole discretion of DOT adversely affects the reputation of DOT or of the City; and, at the City's direction, NYCBS shall remove any such Advertising or Sponsorship matter.

8.7. NYCBS shall comply with all applicable laws, rules and regulations in force as of the Effective Date and which may hereafter be adopted, to the extent not grandfathered under the law, with respect to Advertising and Sponsorship.

8.8. Unless otherwise approved by DOT, for each Kiosk, NYCBS may:

8.8.1. Install up to one (1) Advertising or Sponsorship acknowledgment placement panel per Station, provided that such panel shall not be larger than two feet by four feet.

- 8.9. Unless otherwise approved by DOT, for each Dock, NYCBS may:
 - 8.9.1. Install Advertising and Sponsorship acknowledgment graphics, provided that such graphics may not exceed 1.5 feet squared; and
 - 8.9.1. Permit one Advertiser or Sponsor.
- 8.10. Subject to Section 8.10.4, unless otherwise approved by DOT, for each Bicycle, NYCBS may:
 - 8.10.1. Install Advertising and Sponsorship acknowledgment graphics, provided that such graphics may not exceed 1.5 feet squared;
 - 8.10.2. Install Advertising and Sponsorship acknowledgment graphics on the following elements of the Bicycle (but on no other elements);
 - (a) Baskets;
 - (b) Back and front mudguards; and
 - (c) Bicycle frame.
 - 8.10.3. Permit one Advertiser or Sponsor.
 - 8.10.4. Notwithstanding the forgoing, the Parties acknowledge and agree that as long as Citibank, N.A. or one of its affiliates ("Citi") is the title sponsor of the Program, Citibank, N.A. shall, except to the extent otherwise agreed by Citi, be the only Advertiser or Sponsor with acknowledgment graphics on each Bicycle.
- 8.11. NYCBS may additionally utilize the following assets for Advertising or Sponsorship acknowledgement placements:
 - 8.11.1. Membership swipe cards and keys;
 - 8.11.2. User receipts;
 - 8.11.3. Maintenance vehicles;
 - 8.11.4. Staff uniforms;
 - 8.11.5. Launch campaign literature;
 - 8.11.6. Media partnerships;
 - 8.11.7. Website;

- 8.11.8. Mobile applications;
- 8.11.9. Printed maps and materials;
- 8.11.10. Registration packets and Program newsletters;
- 8.11.11. Safety campaigns; and
- 8.11.12. Such other assets as may be approved by DOT.

8.12. The City shall have no liability or obligation with regard to any Advertising or Sponsorship that survives the termination or expiration of this Agreement however, the City, at no cost to the City, shall cooperate with Recognized Lenders to keep the Sponsorship agreement in effect while a replacement operator is being pursued and will continue to cooperate if a replacement operator is selected.

8.13. If DOT declines to give consent or approval referred to hereunder, it will so advise NYCBS and provide NYCBS an opportunity to discuss with DOT and an opportunity to attempt to meet DOT's articulated objections.

SECTION 9

FINANCIAL INDEPENDENCE

9.1. The City shall not be obligated to pay or bear any of the costs or expenses of the Program whatsoever. Without limiting the foregoing in any way, examples of costs and expenses of the Program that the City will not be obligated to pay or to bear include:

- 9.1.1. The cost of De-installations, Adjustments and Deactivations, including by reason of street construction, special events, or any other reason; and
- 9.1.2. Costs for lockdowns, or any other temporary suspension of the Program in accordance with this Agreement.

9.2. Following the first anniversary of the Effective Date, NYCBS shall reimburse the City for parking meter revenue foregone by the City during the period from the Effective Date through the first anniversary of the Effective Date, and following each subsequent anniversary of the Effective Date during the Term, NYCBS shall reimburse the City for parking meter revenue foregone by the City during the one-year period preceding such anniversary of the Effective Date, in each such case resulting from the use for Station locations or for Station site installation of what was, prior to such use or activity, a metered parking space. For each such one-year period, NYCBS and the City agree that the full amount of the reimbursement required pursuant to the preceding sentence shall be \$1,000,000.00 (One Million Dollars) per year (not more and not less). NYCBS shall wire transfer such amount, in accordance with instructions provided by DOT, within 60 Days of each anniversary of the Effective Date. Payment of such amount shall

be sufficient to comply with Section 9.1 as such Section applies to lost parking meter revenue for the applicable year.

9.3. Concurrently with the execution and delivery of this agreement, Related Special Assets, LLC, an entity with a liquid net worth in excess of \$100,000,000, has delivered to DOT an executed copy of the Related Guarantee substantially in the form of Exhibit C hereto.

SECTION 10

REVENUE SHARING

10.1. Definitions. All of the terms defined in this Section 10.1, when used in this Section 10, shall have the meanings described below in this Section 10.1:

10.1.1. "Ridership Revenue" shall mean all revenues (from whatever source derived, and without deduction whatsoever for commissions, fees, brokerage, labor charges or other expenses or costs), to the extent actually collected by NYCBS as determined on a cash basis, as Program membership or user payments (including but not limited to annual, weekly and daily membership payments), payments for use of Bicycles extending beyond the Initial Ride Period as defined in Section 11 hereof and any other Program revenue generated through Bicycle ridership, net of sales taxes or other taxes imposed by law which NYCBS is obligated to collect and net of credit card fees netted out of amounts due to NYCBS by the credit company prior to payment to NYCBS and other billing related charges treated by the party imposing such charges in a similar manner.

10.1.2. "All Other Revenue" shall mean all revenues (from whatever source derived, and without deduction whatsoever for commissions, fees, brokerage, labor charges or other expenses or costs), to the extent actually collected by NYCBS as determined on a cash basis as a result of Program advertising and sponsorships, including without limitation revenue generated in connection with (x) naming rights related to the Program and (y) sponsorship or advertising placements on Bicycles, Stations, Equipment, website, mobile applications or other physical or web-based materials, revenue generated through User Data as well as all other Program revenue sources and amounts excluding Ridership Revenue, net of sales taxes or other taxes imposed by law which NYCBS is obligated to collect and net of credit card fees and other billing related charges.

10.1.3. "Contract Year" is defined as follows:

- (a) The first Contract Year shall be the period commencing with the Effective Date and running through and including December 31 of the calendar year in which the Effective Date falls,

- (b) Thereafter each full calendar year falling within the Term shall be a Contract Year, and
- (c) The final Contract Year shall be the period commencing January 1 of the calendar year in which the final day of the Term falls and running through and including the final day of the Term.

10.2. Within 90 Days following the end of the first and final Contract Year, NYCBS shall:

10.2.1. Deliver to the City a schedule, certified by a senior officer of NYCBS, setting for the Ridership Revenue and the All Other Revenue for the first Contract Year; and

10.2.2. Pay into an escrow account, in accordance with DOT instructions, an amount equal to;

(a) 5% of the excess of Ridership Revenue for the first Contract Year over an amount equal to the product of \$30,000,000 and the ratio of the number of days during such Contract Year to 365; plus

(b) 5% of the excess of All Other Revenue for the first Contract Year over an amount equal to the product of \$10,000,000 and the ratio of the number of days during such Contract Year to 365; less

(c) A one-time credit in the amount of \$1,500,000 to be applied in the first Contract Year. If this credit cannot be fully applied following the end of the first Contract Year, it shall be applied in subsequent Contract Years until fully applied.

10.3. Within 60 Days following the end of each Contract Year during the Term following the first Contract Year, NYCBS shall:

10.3.1. deliver to the City a schedule, certified by a senior officer of NYCBS, setting for the Ridership Revenue and the All Other Revenue for such Contract Year, and

10.3.2. pay into an escrow account, in accordance with DOT instructions, an amount equal to the sum of:

(a) the 5% of the excess of Ridership Revenue for the first Contract Year over \$30,000,000; and

(b) the 5% of the excess of All Other Revenue for the first Contract Year over \$10,000,000.

10.4. In the event that any payment due pursuant to Sections 10.2 and 10.3 are not received by the City as required within 90 Days following the end of the applicable Contract Year, NYCBS shall pay interest on such overdue amount at the Applicable Interest Rate in effect from time to time to the City retroactive to the first day that such payment was due; provided, however, that

no interest shall be paid with respect to delays in payment by NYCBS which are caused by the City.

10.5. No acceptance of any payment due pursuant to Sections 10.2 and 10.3 shall be construed as an accord that the payment is the correct amount, nor shall such acceptance of payment be construed as a release of any claim that the City may have for further or additional sums payable under this Agreement.

SECTION 11

PRICE SCHEDULES.

11.1. NYCBS agrees that the amount and terms of the fees it charges users of the Program shall be consistent with the provisions of this Section. Membership Fees and Initial Ride Periods shall be consistent with Section 11.2 herein, the Annual Membership Fee for users eligible for the affordability subscription specified in Section 11.3.1 herein shall be as described in said Section 11.3.1, the maximum Bicycle usage charge shall be consistent with Section 11.5 herein and the fees for damaged, lost, stolen or otherwise unreturned Bicycles shall be consistent with Section 11.6 herein initially charged by NYCBS shall be consistent with this Section. A "Membership Fee" is an amount that entitles the purchaser of the membership (a "member", for the period of such purchased membership) to check out one or more Bicycle(s) at a time, for the length of time described below, provided that the member shall be charged a usage fee associated with the time period the Bicycle is checked out, as described below (beyond the Initial Ride Period as defined below). A Bicycle is "checked out" for the period from the time it is removed from a Dock to the time it is returned to a Dock. A member may check out and return a Bicycle from or to any Dock at any Station in the Program, for an unlimited number of times, at any time during the period of the member's membership, with the usage fee applicable to each such checkout and return sequence being calculated separately (so, for example, an annual member may, within the member's membership period, check out a Bicycle and return it within the first 45 minutes after checkout, and then subsequently check out a Bicycle and return that Bicycle with the first 45 minutes after that checkout, without incurring any usage fee for either checkout period).

11.2. Membership Fees, New Ridership Programs/Arrangements, and Initial Ride Periods:

11.2.1. NYCBS shall offer an Annual membership for a fee in an amount not to exceed the Annual Membership Fee Cap in effect from time to time. The Annual Membership Fee Cap shall be \$155 for the one-year period from the date hereof through and including the date one day prior to the first anniversary of the date hereof, and shall be automatically increased on the first anniversary of the date hereof and on each anniversary of the date hereof thereafter by a percentage amount equal to the CPI increase for the trailing four calendar quarters preceding each such anniversary plus 2% (so, for example, if the CPI increase were 1% for the trailing four calendar quarters preceding a particular anniversary of the date hereof, the applicable permitted percentage increase in the Annual Membership Fee Cap as of that anniversary would be 3%). The period of an Annual

membership shall run from the day the annual membership is activated until the first anniversary of the date on which the annual membership had been activated (but a membership purchased on February 29 shall expire on March 1 of the following Year). In the event NYCBS offers quarterly, monthly or other instalment payment plans for the payment of the Annual membership fee such instalment payment method shall not affect the status of the membership as an Annual membership for purposes of this Agreement;

11.2.2. All memberships will include a free period of usage (the "Initial Ride Period"), which is the length of time at the beginning of each individual trip to which additional usage fees will not be applied. For Annual Memberships and Affordability Memberships, the Initial Ride Period is 45 minutes. For all other memberships or users, the Initial Ride Period is 30 minutes. Usage fees will be applied to all trips that exceed the Initial Ride Period; and

11.2.3. For monthly, weekly and daily memberships, and for usage of the Program by non-members, NYCBS will determine the applicable fees, usage fees, and periods of use for members beyond the Initial Ride Period in its sole discretion, provided that fees and arrangements that may affect the capacity and availability of the Program, or that would offer for a fee additional services not available to all Annual members will be subject to the prior approval of DOT, not to be unreasonably delayed and not to be unreasonably withheld.

11.3. Affordability Option:

11.3.1. Notwithstanding the permitted rate for an Annual Membership set forth in set forth in Section 11.2.1 (as adjusted pursuant to Section 11.11), NYCBS shall charge those eligible for an "affordability subscription", no more than \$60 per annum (excluding sales tax) as Annual membership fee, such rate to be subject to increase only with the prior consent of DOT.

11.3.2. NYCBS shall provide the option for affordability membership clients to pay in quarterly or monthly installments.

11.3.3. Those eligible for affordability memberships shall be qualified New York City Housing Authority residents and members the credit unions listed in Exhibit D hereto and any categories of persons which the Parties mutually agree to include from time to time.

11.3.4. DOT shall determine the process for determining who is "qualified" as that term is used in Section 11.3.3.

11.3.5. NYCBS shall develop a non-City funded backing fund to cover the cost of Bicycles lost or damaged by affordability members.

- 11.3.6. Members enrolling through the affordability program shall be entitled to the same rights, privileges as all other Annual membership holders.
- 11.3.7. The usage fees for affordability members shall not exceed the rate charged to general annual members.
- 11.3.8. NYCBS shall work with the affordability partners to create a mechanism for charging usage fees.
- 11.4. The checkout period for the purposes of calculating usage fees shall always commence with the time a Bicycle is actually removed from a Dock, and it shall not be based on the time of insertion of a payment or identification card.
- 11.5. The maximum Bicycle usage charge initially charged with respect to any member shall be \$100 per 24 hour period, not including charges for damaged, lost, stolen or otherwise unreturned Bicycles.
- 11.6. Fees for damaged, lost, stolen or otherwise unreturned Bicycles initially charged shall be (i) \$1,200, if not returned, or (ii) if returned, the sum of all direct costs of the repair, including all labor and parts, as determined by NYCBS in its reasonable discretion, plus a 10% administrative fee.
- 11.7. NYCBS shall at all times post on all Stations and on NYCBS' website a complete and up-to-date fee description that sets forth each and every current membership and usage fee offered by NYCBS, the methods of purchasing memberships and paying fees, available discounts on such fees, the applicability and terms of such discounts and, to the extent applicable, how to apply for or qualify for such discounts, and fees associated with damaged, lost, stolen or otherwise unreturned Bicycles. NYCBS shall furnish written copies of such material to the public upon request.
- 11.8. NYCBS shall accept credit card and debit card payments online and at all Stations but in the case of debit cards only those that have a VISA or MASTERCARD logo on them. NYCBS may employ such other methods of payment as it may determine.
- 11.9. All required state sales and use taxes with respect to membership and usage fees shall be collected and paid by NYCBS, as required by applicable law.
- 11.10. NYCBS shall be permitted to create Program pricing discount programs, which may be targeted in connection with marketing and outreach efforts, and in connection with Sponsorship or Advertising programs, to expand or enable Program use among different communities or for other lawful purposes, subject to the provisions of Section 11.2.3 with respect to DOT approval requirements.

11.11. At any time and from time to time, with prior notice to and after providing DOT with an opportunity to consult, but without the need to obtain the approval of the DOT, NYCBS shall have the right:

- 11.11.1. To adjust the amount of the Annual Membership Fee specified in Section 11.2.1 herein downwards at any time and upwards on each anniversary of the date hereof by an amount not to exceed the Annual Membership Fee Cap then in effect;
- 11.11.2. To adjust the amount of the maximum Bicycle usage charge specified in Section 11.5 herein and the fees for damaged, lost, stolen or otherwise unreturned Bicycles specified in Section 11.6 herein downwards at any time and upwards on each anniversary of the date hereof by a percentage amount equal to the CPI increase for the trailing four calendar quarters preceding each such anniversary plus 2% (so, for example, if the CPI increase were 1% for the trailing four calendar quarters preceding a particular anniversary of the date hereof, the applicable permitted percentage increase in the Annual Membership Fee Cap as of that anniversary would be 3%);
- 11.11.3. Any upwards adjustment permitted under this Section 11.11 and not made as of any anniversary date may be made at any time after such anniversary date without derogation of NYCBS' right to make any other upwards adjustments permitted under this Section 11.11, and
- 11.11.4. Subject to Section 11.11.1 herein, to adjust in its sole discretion all other fees, time periods and charges specified hereunder other than those fees, time periods and charges specified in Section 11.2.2 and Section 11.3 herein.

11.12. Anything herein to the contrary notwithstanding, NYCBS may, without the requirement of any approval by DOT, provide to Citi as NYCBS and Citi shall agree:

- 11.12.1. up to 50,000 free one-month memberships (including the costs of the fulfillment of such memberships) per Year which Citi can distribute and position to its customers as either a free one month membership or as a month free for the renewal of an annual membership using a credit or debit card issued by Citi or its affiliates;
- 11.12.2. up to 50,000 casual day-passes per Year for Citi to distribute in its sole discretion, including but not limited to Citi's co-brand card partners for such co-brand partners' distribution to their customers;
- 11.12.3. up to 1,000 free annual memberships (NYCBS will pay for the costs of fulfillment of such memberships per Year for Citi to distribute in its sole discretion, including but not limited to its employees, charity partners, and customers); and

- 11.12.4. the moving and/or wrapping of Program stations for Citi as related to certain events selected by Citi, the exact number of times per Year to be mutually agreed upon by Citi and NYCBS.

SECTION 12

MERCHANDISING, LICENSING AND INTELLECTUAL PROPERTY

12.1. Subject to the limitations, terms and conditions set forth in this Agreement, the City does hereby grant to NYCBS and its affiliates, successors, assigns, business partners, and sublicensees a non-exclusive license to use, during the Term, any and all of the City's trademarks, logos, servicemarks, and other intellectual property rights, (individually and/or collectively the "City Property") to, upon prior approval by DOT, directly or indirectly create, develop, make, market, promote, distribute, and sell goods and services, to operate and promote the Program as may be determined by NYCBS.

12.2. Subject to the limitations, terms and conditions set forth in this Agreement, NYCBS shall obtain or assist the City and its affiliates, successors, assigns, business partners, and sublicensees to obtain non-exclusive licenses to use, during the term of any Sponsorship agreement, the sponsor trademarks, logos, servicemarks, and other intellectual property identified for use in connection with the Sponsorship agreement, (individually and/or collectively the "Sponsor Property") to, directly or indirectly create, develop, make, market, promote, distribute and to operate and promote the Program under any name or title approved by the City for use in connection with the Program (the "Program Name"); provided, however, the City's use of any Sponsor Property shall comply with reasonable quality control measures required by a Sponsorship agreement to which the City and sponsor have given its advance written approval. To the extent that the Program Name incorporates City Property, the City shall own the portion of any Program Name that consists of City Property.

12.3. Subject to the limitations, terms and conditions set forth in this Agreement, NYCBS hereby grants to the City and its affiliates, successors, assigns, business partners, and sublicensees a non-exclusive, royalty-free license to use any intellectual property developed by NYCBS (individually and/or collectively the "NYCBS Property") required in connection with promoting the Program during the Term of this Agreement. To the extent that this Agreement expires (and is not renewed) or terminates without fault on the part of NYCBS, any successor operator of the Program shall pay a reasonable royalty to NYCBS for the use of NYCBS Property which is developed after the Go Live Date as an enhancement to existing NYCBS Property developed prior to the Go Live Date.

12.4. The City hereby grants to NYCBS during the Term the right to use the name "NYC Bike Share, LLC", "NYC Bike Share" and variations thereof approved in advance in writing by the City (individually and/or collectively "NYC Bike Share"). Upon expiration or termination of this Agreement, NYCBS shall immediately convey all right, title and interest in and to NYC Bike Share and all goodwill associated therewith to the City at no additional cost or expense to the City.

12.5. Any website or domain name or URL associated with the Program shall be acquired in the name of the City and owned exclusively by the City, except for any domain name that consists of or includes Sponsor Property. Any use of Sponsor Property in a URL string will be licensed to City for use as part of a fully qualified domain. The City shall have approval rights over any website, domain name or URL used in connection with the Program and such website, domain name or URL shall be capable of hosting a link from the City's website, www.nyc.gov.

12.6. Notwithstanding the foregoing Sections, the Recognized Lender shall not be precluded from collateralizing intellectual property, if any, that is the property of NYCBS.

SECTION 13

TRADEMARK OWNERSHIP

13.1. NYCBS agrees that by virtue of this Agreement it does not and shall not claim any right, title, or interest in the Program Name or the City Property or any part thereof (except the right to use them in accordance with this Agreement), and that any and all uses thereof by NYCBS shall inure to the benefit, respectively, of the City or any sponsor whose marks are incorporated into the Program Name, to the extent that such uses incorporate City or Sponsor Property. NYCBS acknowledges the City's sole right, title, and interest in and to, and ownership of the City Property (and in the Program Name to the extent it incorporates City Property) and the validity of the trademarks and service marks that are part of the City Property (or Program Name to the extent that it incorporates City Property) and the City's rights therein. NYCBS agrees that it will not raise or cause to be raised any challenges, questions, or objections to the validity, registrability, or enforceability of the City Property; the Program Name; to Section 12, Section 13 and Section 14 herein; or to the validity of the City Property (or the Program Name to the extent that it incorporates City Property) and the City's rights therein, and shall not contest such right and title, nor do or permit to be done any act or omission which will in any way impair the rights of the City with respect to such City Property or the Program Name to the extent that it incorporates City Property. The City acknowledges that the Program Name may or may not include City Property and may consist of or incorporate Sponsor Property to the extent such Program Name is approved in advance by the City in its sole discretion.

13.2. NYCBS agrees to reasonably assist the City in protecting the City's rights to the City Property (and the Program Name to the extent that it incorporates City Property), including but not limited to reporting to the City any infringement or imitation of the City Property or the Program Name of which NYCBS becomes aware. The City shall have the sole right to determine whether to institute litigation with respect to such infringements of City Property or the Program Name to the extent that it incorporates City Property, as well as the sole right to select counsel. The City may commence or prosecute any claims or suits for infringement of the City Property in its own name or the name of NYCBS or join NYCBS as a party thereto. If the City brings an action against any infringement of the City Property or the portion of any Program Name that infringes City Property, NYCBS shall reasonably cooperate with the City and shall be reimbursed for its reasonable and pre-approved out-of-pocket expenses.

13.3. If claims are made against the City, or NYCBS with respect to the use of the City Property or the Program Name to the extent that it incorporates City Property in connection with any licensed products, then the Parties agree to consult with each other on a suitable course of action. In no event shall NYCBS, without the prior written consent of the City, have the right to acknowledge the validity of the claim of such party, to obtain or seek a license from such party, or to take any other action which might impair the ability of the City to defend or otherwise contest the claim of such party. The City shall have the right to participate at its own expense in the defense of any claims or suit instituted against NYCBS with respect to the use by NYCBS of the City Property or any Program Name that incorporates City Property.

13.4. NYCBS agrees to make modifications requested by the City in NYCBS' use of the City Property or any Program Name incorporating City Property, if the City, in its sole discretion, determines such action to be necessary or desirable to resolve or settle a claim or suit or to eliminate the threat of a claim or suit by any party.

SECTION 14

GOODWILL

14.1. NYCBS recognizes and acknowledges that the City Property, any Program Name to the extent that it incorporates City Property and the City's name and reputation are the exclusive property of the City and that they communicate to the public, worldwide, a reputation for high standards of quality and service, which reputation and goodwill have been and continue to be unique to the City. NYCBS further recognizes and acknowledges that the City Property has acquired secondary meaning in the mind of the public.

14.2. NYCBS shall use the City Property and any Program Name incorporating City Property only in the manner specified by the City. NYCBS acknowledges and agrees that all use of and goodwill in the City Property and Program Name shall inure to the sole benefit of the City or the trademark owner whose marks are incorporated into the Program Name. Except for the rights granted under this Agreement, NYCBS shall not acquire any rights in the City Property or Program Name by virtue of any use it makes of the City Property. NYCBS shall not attempt to register the City Property alone or as part of any other trademark, service mark, trade name, or corporate identifier (including without limitation its own trademark), nor shall NYCBS use, adopt as its own, or attempt to register any marks, names, domain names, designations, or indicia that are the same as or similar to the City Property or Program Name except to the extent that such use is preapproved in advance by the City and any marks, names, domain names, designations or indicia that are the same as or similar to the City Property or the Program Name are used, adopted or registered for the benefit of the City or any sponsor, as their interests may appear, and are assigned to the City or the sponsor, respectively, at the expiration or termination of this Agreement.

14.3. Any art work or other materials conceived under or resulting from this Agreement (other than the marks or property of any sponsor or third party), including but not limited to copyrighted materials and trademarks, trade names, service marks, service names and trade dress

and the like, whether developed by NYCBS or on behalf of NYCBS shall be considered "work made for hire" within the meaning of 17 U.S.C. §101 and is the exclusive property of the City upon creation to the extent that they include City Property or operation of the Program. In the event that such materials are deemed not to be a work made for hire, NYCBS hereby irrevocably assigns to the City its entire right, title, and interest in and to such work and any derivative works thereof (including without limitation all rights of copyright). NYCBS agrees to execute any documents as may be deemed necessary or desirable by the City to register in its own name, record, confirm, clarify, or otherwise cause the foregoing assignment of rights to the City to have full legal effect worldwide. If NYCBS desires to develop any new or different design for any mark, symbol, logo character or other element included within the City Property or related to the Program, NYCBS shall first obtain the City's written approval, and in any event all such designs shall be fully subject to the provisions of this paragraph and owned in full by the City to the extent that they do not incorporate Sponsor Property or other third party marks.

14.4. NYCBS acknowledges that, from time to time and without notice to NYCBS, it may be necessary or desirable for the City to modify certain elements of the City Property in connection with any licensed products, to include additional elements to the City Property, or to discontinue use of some or all of the elements of the City Property. Accordingly, the City does not represent or warrant that the City Property or any elements thereof will be maintained or used in any particular fashion by the City. Any new elements or modifications to existing elements used by the City following the execution of this Agreement may be included in, or deleted from (as applicable), the City Property at the sole discretion of the City. NYCBS agrees to comply with the City's written request to include such elements as, or to delete such elements from, the City Property within a reasonable period of time from NYCBS' receipt of such written request. The Parties shall mutually agree on the manner in which such request shall be implemented.

SECTION 15

MARKETING, PROMOTIONS AND REPORTING

15.1. NYCBS shall provide, directly or indirectly, marketing Services for the Program; and, the marketing budget and the allocation of such budget shall be determined by NYCBS, in its reasonable discretion. NYCBS will create a marketing plan in coordination with DOT. The marketing plan shall include at a minimum demonstrations, events, social media outreach, programs, partnerships and other efforts to educate New Yorkers about bike share, launch the Program and grow membership and ridership in a financially sustainable manner.

15.2. NYCBS shall provide, directly or indirectly, a youth jobs training program, in connection with the Program and in coordination with DOT; and, such program's budget and the allocation of such budget shall be determined by NYCBS, in its reasonable discretion. NYCBS will coordinate with a local group to train classes of youths in bike mechanic training, with the opportunity for such youths to gain employment after the training program.

15.3. At any time and from time to time, NYCBS may, in its sole discretion, offer discounts and promotions for the Program.

SECTION 16

WEBSITE

16.1. NYCBS shall create and maintain a Program website, subject to the City's prior review. The Program's website shall include, at a minimum, all of the following elements:

- 16.1.1. Eligibility requirements;
- 16.1.2. Subscription information and rate schedules;
- 16.1.3. Payment and subscription processing information;
- 16.1.4. Method for subscribers to update required information;
- 16.1.5. Subscriber agreement and acceptance of terms;
- 16.1.6. Map of network of Stations and real-time availability of Bicycles at each Station;
- 16.1.7. Frequently Asked Questions;
- 16.1.8. Safety requirements and information (including malfunctions and crashes);
- 16.1.9. News and operational updates;
- 16.1.10. Special events notices;
- 16.1.11. Links to other bike programs and events;
- 16.1.12. Call center contact information;
- 16.1.13. Real-time information on Bicycles and Docks for app developers (e.g. JSON Feed), as provided in Appendix-F (Functional Specifications);
- 16.1.14. System-wide anonymized historical data;
- 16.1.15. For individual members, that member's ridership history; and
- 16.1.16. For individual members, that member's payment history.

16.2. NYCBS shall keep all information on the Program's website updated.

SECTION 17

SECURITY FUND

17.1. DOT acknowledges that NYCBS has deposited with DOT a security deposit ("Security Fund") in the amount of \$500,000.00. Interest on the Security Fund shall accrue in an interest bearing bank account for the benefit of NYCBS, and all such interest shall be paid annually to NYCBS, on each anniversary of the Go Live Date.

17.2. DOT shall be entitled, as authorized by law, to charge and collect from NYCBS for any reasonable administrative expenses, custodial charges, or other similar expenses, as may result from the operation of this Security Fund.

17.3. NYCBS shall maintain \$500,000.00 in the Security Fund at all times during the Term and for one Year after the end of the Term (provided that such one Year additional period shall not start until the end of any holdover period for the Term), unless within such one Year period DOT notifies NYCBS that the Security Fund shall remain in full force and effect during the pendency of any litigation or the assertion of any claim that has not been settled or brought to final judgment and for which the Security Fund provides security; provided, however, that only such portion of the Security Fund as shall represent the amount actually subject to such outstanding litigation or other claim shall be retained and only until such time as the litigation or other claim is resolved. Any amounts remaining in the Security Fund that are not being retained in accordance with this paragraph shall be promptly returned to NYCBS, and the City shall fully and timely cooperate with the payment of the Security Fund to NYCBS.

17.4. The Security Fund shall secure the City up to the full face amount of such Security Fund, for any purpose set forth in Section 17.5.

17.5. The Security Fund shall serve as security for the faithful performance by NYCBS of all terms, conditions and obligations of this Agreement, including, but not limited to:

17.5.1. Any loss or damage to any municipal structure or property of the City, for which NYCBS would be responsible under this Agreement, during the course of any installation, operation, and maintenance of the Program;

17.5.2. Any costs, loss or damage incurred by the City as a result of NYCBS' failure to perform its obligations pursuant to this Agreement;

17.5.3. The removal of all or any part of the Program, for which NYCBS would be responsible under this Agreement, from the property of the City, pursuant to this Agreement;

17.5.4. Any expenditure, damage, or loss incurred by the City resulting from NYCBS' failure to comply with any rules, regulations, orders, permits and other directives of the City and the Commissioner issued pursuant to this Agreement; and

17.5.5. The payment of any other amounts that become due to the City from NYCBS pursuant to this Agreement, including, but not limited to, payment of compensation set forth in Section 10.1 hereof and liquidated damages.

17.6. In accordance with Section 17.4 and this Section 17.6, DOT may make withdrawals from the Security Fund of such amounts as are necessary to satisfy (to the degree possible) NYCBS' obligations under this Agreement that are not otherwise satisfied and to reimburse the City for costs, losses or damages incurred as the result of NYCBS' failure to satisfy its obligations. DOT may not seek recourse against the Security Fund for any costs, losses or damages for which DOT has previously been compensated through a withdrawal from the Security Fund or otherwise through payment or reimbursement by NYCBS.

17.7. Within 48 hours after any withdrawals from the Security Fund, DOT shall notify NYCBS of the date and amount thereof, provided, however, that DOT shall not make any withdrawals by reason of any breach for which NYCBS has not been given notice and an opportunity to cure in accordance with this Agreement. The withdrawal of the amounts from the Security Fund shall constitute a credit against the amount of the applicable liability of NYCBS.

17.8. Until the expiration of one Year after the end of the Term or during any holdover period), within 30 Days after NYCBS' receipt of notice ("Replenishment Period") from DOT that any amount has been withdrawn from the Security Fund as provided in this Section 17, NYCBS shall restore the Security Fund to the amount specified in Section 17.3, provided that NYCBS is not contesting, in good faith, the withdrawal. If NYCBS fails to replenish the appropriate amount within the Replenishment Period and does not contest the withdrawal before a court of competent jurisdiction, then NYCBS shall pay interest accruing on that amount at the Applicable Interest Rate in effect from time to time, from the completion of the Replenishment Period until such replenishment is made. If the withdrawal is contested, then upon the entry of a final, non-appealable, court order or judgment determining the propriety of the withdrawal, DOT, or NYCBS as applicable, shall refund or replenish the appropriate amount to the Security Fund. If NYCBS has not refunded or made the required replenishment to the Security Fund within 30 Days of the entry of a final non-appealable court order or judgment, then interest on the amount not refunded or replenished shall be payable by NYCBS, as applicable, at a rate equal to the Applicable Interest Rate in effect from time to time from the end of the Replenishment Period to the date the applicable amounts are actually refunded or replenished. Such interest shall be payable to DOT as entitled thereto.

17.9. The obligation to perform and the liability of NYCBS pursuant to this Agreement shall not be limited in nature or amount by the acceptance of the Security Fund required by this Section 17, subject to the limitations set forth Section 17.5.5.

SECTION 18

INDEMNITY

18.1. NYCBS and the City shall take all reasonable precautions to protect all persons and the property of the City and of others from damage, loss or injury caused by NYCBS' or its subcontractors' operations under this Agreement.

18.2. NYCBS shall defend, indemnify and hold the City and its officers and employees harmless, to the fullest extent permitted by law, from any and all claims or judgments for damages on account of any injuries or death to any person or damage to any property and from costs and expenses to which the City, its officers and employees may be subjected arising out of or in connection with any negligence or intentional misconduct by NYCBS or its subcontractors; provided, however, that NYCBS shall not be responsible for any negligence by the City or its employees, agents or contractors or for any damages caused by the City or its employees, agents or contractors. Insofar as the facts or law relating to any claim would preclude the City from being completely indemnified by NYCBS, the City shall be partially indemnified by NYCBS.

18.3. NYCBS shall defend, indemnify and hold the City harmless from any and all claims (even if the allegations of the lawsuit are without merit) or judgments for damages and from costs and expenses to which the City may be subject to or which it may suffer or incur allegedly arising out of or in connection with any infringement by NYCBS of any copyright, trade secrets, trademark or patent rights or any other property or personal right of any third party by NYCBS or its subcontractors in the performance of this Agreement. NYCBS shall defend, indemnify, and hold the City harmless regardless of whether or not the alleged infringement arises out of compliance with the Agreement's scope of services/scope of work. Insofar as the facts or law relating to any claim would preclude the City from being completely indemnified by NYCBS, the City shall be partially indemnified by NYCBS to the fullest extent permitted by law.

18.4. Upon receipt by the City of actual notice of a proceeding against the City in respect of which indemnity may be sought under Section 18.2 or Section 18.3 (a "Proceeding"), the City shall notify NYCBS with respect thereto. In addition, the City shall notify NYCBS after any Proceeding is commenced (by way of service with a summons or other legal process giving information as to the nature and basis of the claim) against the City in respect of which indemnity may be sought under Section 18.2 or Section 18.3. In any event, failure to notify NYCBS shall not relieve NYCBS from any liability which NYCBS may have on account of this indemnity or otherwise, except to the extent NYCBS shall have been prejudiced by such failure. NYCBS shall assume the defence of any Proceeding in respect of which indemnity may be sought under Section 18.2 or Section 18.3, including the employment of counsel reasonably satisfactory to the City and the payment of the fees and expenses of such counsel, in which event, except as provided below, NYCBS shall not be liable for the fees and expenses of any other counsel retained by the City in connection with such Proceeding. In any such Proceeding the defence of which NYCBS shall have so assumed, the City shall have the right to participate in such Proceeding and to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of the City unless (i) NYCBS and the City shall have mutually agreed in writing to the retention of such counsel or (ii) the named parties to any such Proceeding (including any impleaded parties) include NYCBS and the City and representation of both parties by the same counsel would, in the reasonable opinion of counsel to NYCBS, be inappropriate due to actual or potential differing interests between NYCBS and the City. NYCBS shall not be liable for any settlement of any Proceeding effected without its written consent, but if settled with such consent or if there is a final judgment against the City, NYCBS agrees to indemnify the City from and against any loss or liability by reason of such settlement

or judgment. NYCBS will not settle any Proceeding to which the City is a party and in respect of which indemnity may be sought hereunder unless such settlement includes an unconditional release of the City from all claims made against the City in connection with such Proceeding without any admission of liability or wrongdoing.

18.5. The indemnification provisions set forth in this Section 18 shall not be limited in any way by NYCBS' obligations to obtain and maintain insurance as provided in this Agreement.

18.6. NYCBS shall report to the General Counsel at DOT, 55 Water Street, 9th Floor, New York, NY 10041 and the Corporation Counsel – Torts Division in writing as soon as practicable, but in no event later than ten (10) business days after becoming aware of the initiation by or against NYCBS of any legal action or proceeding in connection with or relating to this Agreement.

18.7. The provisions of this Agreement shall not be deemed to create any right of action in favor of third parties against NYCBS or the City or their respective officers and employees.

SECTION 19

INSURANCE

19.1. NYCBS shall, upon the Effective Date, have all insurance required by this Section in effect and NYCBS shall ensure continuous insurance coverage in the manner, form, and limits required by this Section throughout the Term.

19.2. Commercial General Liability Insurance:

19.2.1. NYCBS shall maintain Commercial General Liability Insurance covering NYCBS as a named insured in the amount of at a minimum of \$10,000,000 per occurrence and a minimum of \$10,000,000 aggregate. The use of an Excess or Umbrella policy would be allowable to meet the limit. Such insurance shall protect the City and NYCBS from claims for property damage and bodily injury, including death, that may arise from any of the operations under this Agreement. Such insurance shall cover, inter alia, products liability. Coverage under this insurance shall be at least as broad as that provided by the most recently issued Insurance Services Office ("ISO") Form CG 0001, and shall be "occurrence" based rather than "claims-made"; and

19.2.2. Such Commercial General Liability Insurance and any Umbrella and Excess Insurance shall name the City, together with its officials and employees, as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10.

19.3. Professional Liability Insurance:

- 19.3.1. At DOT's direction, if professional services are provided pursuant to this Agreement, then NYCBS shall maintain and submit evidence of Professional Liability Insurance appropriate to the types of such services to be provided under this Agreement in the amount of at least \$1,000,000 per claim. The policy or policies shall include an endorsement to cover the assumed liability by NYCBS in providing professional services under this Agreement and arising out of the negligent acts, errors or omissions of NYCBS or anyone employed by NYCBS;
 - 19.3.2. All subcontractors of NYCBS providing professional services under this Agreement for which Professional Liability Insurance is reasonably commercially available shall also maintain such insurance in the amount of at least \$1,000,000 per claim, and NYCBS shall provide to DOT, at the time of the request for subcontractor approval, evidence of such Professional Liability Insurance on forms acceptable to DOT; and
 - 19.3.3. Claims-made policies shall be accepted for Professional Liability Insurance. All such policies shall have an extended reporting period option or automatic coverage of not less than two (2) Years. If available as an option, NYCBS shall purchase extended reporting period coverage effective on the cancellation or termination of such insurance, unless a new policy is secured with a retroactive date, including at least the last policy Year.
- 19.4. Workers' Compensation, Disability Benefits, and Employer's Liability Insurance:
- 19.4.1. NYCBS shall maintain, and ensure that each subcontractor maintains, Workers' Compensation Insurance, Disability Benefits Insurance, and Employer's Liability Insurance, in accordance with the laws of the State of New York, on behalf of, or with regard to, all employees providing services under this Agreement.
- 19.5. Unemployment Insurance:
- 19.5.1. To the extent required by law, NYCBS shall provide Unemployment Insurance for its employees.
- 19.6. Business Automobile Liability Insurance:
- 19.6.1. If vehicles are used in the provision of services under this Agreement, then NYCBS shall maintain Business Automobile Liability insurance in the amount of at least \$1,000,000 each accident combined single limit for bodily injury and property damage and Excess or Umbrella Liability insurance to raise the aggregate coverage to a minimum of \$2,000,000 per accident for liability arising out of the ownership, maintenance or use of any owned, non-owned, or hired

vehicles to be used in connection with this Agreement; and, such coverage shall be at least as broad as the most recently issued ISO Form CA0001; and

- 19.6.2. If vehicles are used for transporting hazardous materials, then the Business Automobile Liability Insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48), as well as proof of MCS-90.

19.7. General Requirements for Insurance Coverage and Policies:

- 19.7.1. All required insurance policies shall be maintained with companies that may lawfully issue the required policy and that have an A.M. Best rating of at least A- / "VII" or a Standard and Poor's rating of at least A, unless prior written approval is obtained from the City's Law Department;
- 19.7.2. All insurance policies shall be primary (and non-contributing) to any insurance or self-insurance maintained by the City;
- 19.7.3. NYCBS shall be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which such policies are subject, whether or not the City is an insured under the policy;
- 19.7.4. There shall be no self-insurance program with regard to any insurance required under this Section, unless approved in writing by the Commissioner. Any such self-insurance program shall provide the City with all rights that would be provided by traditional insurance required under this Section, including, but not limited to, the defense obligations that insurers are required to undertake in liability policies; and
- 19.7.5. The City's limits of coverage for all types of insurance required under this Section shall be the greater of (i) the minimum limits set forth in this Section, or (ii) the limits provided to NYCBS as a named insured under all primary, excess, and umbrella policies of that type of coverage.

19.8. Proof of Insurance:

- 19.8.1. For Workers' Compensation Insurance, Disability Benefits Insurance, and Employer's Liability Insurance, NYCBS shall file one of the following within ten (10) Days of award of this Agreement (ACORD forms are not acceptable proof of workers' compensation coverage):
 - (a) C-105.2 Certificate of Workers' Compensation Insurance;

- (b) U-26.3 – State Insurance Fund Certificate of Workers' Compensation Insurance;
 - (c) Request for WC/DB Exemption (Form CE-200);
 - (d) Equivalent or successor forms used by the New York State Workers' Compensation Board; or
 - (e) Other proof of insurance in a form acceptable to the City;
- 19.8.2. For each policy required under this Agreement, except for Workers' Compensation Insurance, Disability Benefits Insurance, Employer's Liability Insurance, and Unemployment Insurance, NYCBS shall file a certificate of insurance with the DOT within ten (10) Days of the Effective Date. All Certificates of Insurance shall be (a) in a form acceptable to the City and certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (b) accompanied by the endorsement in NYCBS' general liability policy by which the City has been made an additional insured pursuant to Section 19.2. All certificates of insurance shall be accompanied by either a duly executed "Certification by Broker" in the form attached as Appendix E or copies of all policies referenced in the certificate of insurance. If complete policies have not yet been issued, binders are acceptable, until such time as the complete policies have been issued, at which time such policies shall be submitted;
- 19.8.3. Certificates of insurance confirming renewals of insurance shall be submitted to the Commissioner prior to the expiration date of coverage of policies required under this Section. Such certificates of insurance shall comply with the requirements of Section 19.9, as applicable;
- 19.8.4. NYCBS shall provide the City with a copy of any policy required under this Section upon the demand for such policy by the Commissioner or the City's Law Department;
- 19.8.5. Acceptance by the Commissioner of a certificate or a policy does not excuse NYCBS from maintaining policies consistent with all provisions of this Section (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so; and
- 19.8.6. In the event NYCBS receives any notice from an insurance company or other person that any insurance policy required under this Section shall expire or be cancelled or terminated for any reason, NYCBS shall immediately forward a copy of such notice to both the Commissioner, and the "New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007".

19.9. Miscellaneous:

- 19.9.1. Whenever any notice of any loss, damage, occurrence, accident, claim or suit is required under a general liability policy maintained in accordance with this Section, NYCBS shall provide the insurer with timely notice thereof on behalf of the City. Such notice shall be given even where NYCBS may not have coverage under such policy (for example, where one of NYCBS' employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the City of New York as Additional Insured" and contain the following information: the number of the insurance policy; the name of the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and, the title of the claim or suit, if applicable. NYCBS shall simultaneously send a copy of such notice to the "City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007". If NYCBS fails to comply with the requirements of this paragraph, then NYCBS shall indemnify the City for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City;
- 19.9.2. NYCBS' failure to maintain any of the insurance required by this Section shall constitute a material breach of this Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time;
- 19.9.3. Insurance coverage in the minimum amounts required in this Section shall not relieve NYCBS or its subcontractors of any liability under this Agreement, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this Agreement or applicable law;
- 19.9.4. NYCBS waives all rights against the City, including its officials and employees, for any damages or losses that are covered under any insurance required under this Section (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of NYCBS or its subcontractors in the performance of this Agreement; and
- 19.9.5. In the event NYCBS requires any subcontractor to procure insurance with regard to any operations under this Agreement and requires such subcontractor to name NYCBS as an additional insured under such insurance, NYCBS shall ensure that such entity also names the City, including its officials and employees, as an additional insured, with coverage at least as broad as the most recently issued ISO form CG 20 26.

SECTION 20

TERMINATION AND DEFAULT

- 20.1. The City shall have the right to declare NYCBS in default under this Agreement:
- 20.1.1. Upon a material breach by NYCBS of a material term or condition of this Agreement after receipt by NYCBS from the City of written notice of such breach and a reasonable opportunity to cure;
 - 20.1.2. Upon the commencement of any proceeding by NYCBS under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of NYCBS for the benefit of creditors;
 - 20.1.3. Upon the commencement of any involuntary proceeding against NYCBS under the Bankruptcy Code that has not been stayed or dismissed within 120 days of its commencement;
 - 20.1.4. If NYCBS or any of its officers, directors or senior management has been indicted or convicted after the date hereof under any state or federal law of any of the matters listed in clauses (a) through (f) of this Section 20.1.4: (x) in connection with a matter that is not directly or indirectly connected with this Agreement or the Program and, in the case of the indictment or conviction of an individual, such individual has not been terminated by NYCBS within 30 days after NYCBS receives notice of such indictment or conviction, or (y) in connection with a matter that is directly or indirectly connected with this Agreement or the Program and (z) if, in either such case, only an indictment (as opposed to conviction) is involved of an officer, director or senior management of NYCBS (after which such individual has been suspended), a review by the City in which NYCBS shall have an opportunity to be heard has been held. The matters referred to above as being listed in clauses (a) through (f) are the following:
 - (a) A criminal offense that is incident to obtaining or attempting to obtain or to performing a public or private contract;
 - (b) Fraud, embezzlement, theft, bribery, forgery, falsification, destruction of records, or receiving stolen property;
 - (c) A criminal violation of any state or federal antitrust law;
 - (d) Violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

- (e) Conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or
- (f) An offense indicating a lack of business integrity that seriously and directly affects responsibility as a City vendor;

20.1.5. If NYCBS or any of its officers, directors, partners, managers, five percent (5%) or greater owners, principals, or other employees or persons substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

20.1.6. If NYCBS or any of its officers, directors, partners, managers, five percent (5%) or greater owners, principals, or other employees or persons substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fails to make a required material statement, in any bid, proposal, or application for City or other government work.

20.1.7. Upon NYCBS' persistent or repeated failures to timely abide by its obligations under this Agreement, with such failures materially and adversely affecting the benefits to be derived by the City Under this Agreement.

20.2. The City's right to declare NYCBS in default shall be exercised by the City sending NYCBS a written notice of the conditions of default, signed by the Commissioner, and setting forth the specific ground or grounds upon which such default is declared ("Notice to Cure"). NYCBS shall have ten (10) Days from its receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default and shall have ten (10) Days from its receipt of the Notice to Cure a violation of Section 3.2 herein; provided, however, that, if such a default is unable to be fully cured within ten (10) Days, NYCBS shall not be in violation of this Section and the default(s) that is (are) the subject of such Notice to Cure shall not become a Default if NYCBS commences such cure within the initial ten (10) Day period and continues to diligently pursue cure of the default until cure has been effected. The Commissioner may temporarily suspend services under the Agreement, pending the outcome of the Default proceedings pursuant to this Section.

20.2.1. If the conditions set forth in the Notice to Cure are not cured within the period provided for in Section 20.2 herein, the Commissioner may declare NYCBS in Default pursuant to this Section. Before the Commissioner may exercise his or her right to declare NYCBS in Default, the Commissioner shall give NYCBS an opportunity to be heard upon not less than five (5) business Days' advance notice. The Commissioner may, in his or her discretion, provide for such opportunity to be in writing or in person. Such opportunity to be heard shall not occur prior to the end of the cure period, but notice of such opportunity to be heard may be

given prior to the end of the cure period and may be given contemporaneously with the Notice to Cure.

20.2.2. After the opportunity to be heard, the Commissioner may declare NYCBS to be in Default under, and terminate, the Agreement upon finding that NYCBS is in default in accordance with the provisions of Section 20.1 and has not effected a cure during the period specified in Section 20.2 herein, whereupon all licenses granted by NYCBS shall thereupon terminate except to the extent that the Commissioner otherwise determines. NYCBS shall be deemed to be in "Default" only after the completion of such a hearing and after the Commissioner has made the requisite findings.

20.2.3. The Commissioner, after determining in accordance with this Section 20.2 that NYCBS is in Default, may have the services under the Agreement completed by such means and in such manner, by contract, or by Assignment of this Agreement, with or without public letting, or otherwise, as he or she may deem advisable in accordance with applicable "New York City Procurement Policy Board Rules", and subject to the option to purchase pursuant to Section 20.2.4, but without using any of NYCBS' proprietary information or materials. After such completion, the Commissioner shall certify the expense incurred in such completion, which shall include the cost of re-letting. The excess expense of such completion, including any and all related and incidental costs, as so certified by the Commissioner, and any liquidated damages, shall be assessed against NYCBS.

20.2.4. Upon finding NYCBS in Default pursuant to this Section, the City may:

- (a) Cause a withdrawal from the Security Fund, pursuant to Section 17 herein;
- (b) Seek money damages from NYCBS as compensation for such Default;
- (c) Seek to restrain by injunction the continuation of the Default;
- (d) If and when the Recognized Loan has been fully repaid, purchase the Equipment at its then fair market value, subject to the rights of the Recognized Lenders;
- (e) Pursue any other remedy permitted by law or in equity or in this Agreement; or
- (f) Terminate this Agreement.

20.3. "Event of Force Majeure" shall mean a delay due to strike; war or act of war (whether an actual declaration of war is made or not); terrorism; insurrection; riot; injunction; fire, flood or similar act of providence; or other similar causes or events to the extent that such causes or

events are beyond the control of the Party claiming an Event of Force Majeure, provided in each case that such Party has taken and continues to take all reasonable actions to avoid or mitigate such delay and provided that such Party notifies the other Party to this Agreement in writing of the occurrence of such delay within five (5) business days, or if not reasonably practicable, as soon thereafter as reasonably practicable, of the date upon which the Party claiming an Event of Force Majeure learns or should have learned of its occurrence. A delay in a decision by a government entity, the approval of which is a condition to an occurrence, shall not constitute an "Event of Force Majeure" unless such delay is beyond the normal period in which such entity generally acts with respect to the type of decision being sought and only if the Party claiming Event of Force Majeure has taken and continues to take all reasonable steps to pursue such decision. In no event will a government entity's final decision relating to NYCBS, this Agreement or the Program, whether positive or negative, once made constitute an Event of Force Majeure (the term "final decision" in this sentence shall refer to a decision with respect to which all available appeals have been exhausted or the time period for filing such appeals has expired). The financial incapacity of NYCBS shall not constitute an Event of Force Majeure.

20.4. In the event NYCBS cannot comply with the terms of the Agreement (including any failure by NYCBS to make progress in the performance of the services to be performed hereunder) because of an Event of Force Majeure, then NYCBS may ask the Commissioner to excuse the non-performance and extend the Term for the period during which the Event of Force Majeure was in effect or terminate the Agreement. If the Commissioner, in his or her reasonable discretion, determines that NYCBS cannot comply with the terms of the Agreement because of an Event of Force Majeure, then the Commissioner shall excuse the non-performance and may, if NYCBS' ability to comply with the terms of this Agreement is permanently impaired, terminate the Agreement. Such a termination shall be deemed to be without cause.

20.5. The City shall not incur any obligation by reason of its termination of this Agreement, but only if such termination is based on NYCBS' Default under this Agreement.

20.6. DOT and the City shall give NYCBS written notice of any termination of this Agreement following a Default determined as provided in Section 20.2 herein. This Agreement shall not be terminated by DOT and the City without such a determination of Default, except pursuant to Section 20.4 above. Such notice shall specify the applicable provisions under which the Agreement is terminated and the effective date of the termination. Except as otherwise provided in this Agreement, the notice shall comply with the provisions of this Section. In the event of a termination, except to the extent such interval is extended by the Commissioner, the effective date of the termination shall not be less than ten (10) Days from the date the notice is personally delivered, or fifteen (15) Days from the date the notice is sent by certified mail, return receipt requested, and deposited in a post office box regularly maintained by the United States Postal Service, in a postage pre-paid envelope or such earlier date as the Commissioner may determine.

20.7. Upon termination or expiration of this Agreement, NYCBS shall comply with the City's close-out procedures, including:

- 20.7.1. Accounting for and refunding to DOT, within forty-five (45) Days, any unexpended funds that have been advanced to NYCBS by the City pursuant to this Agreement;
 - 20.7.2. Turning over to DOT or its designees reasonable copies of all books, records, documents and materials specifically relating to this Agreement that DOT has requested be turned over;
 - 20.7.3. Submitting to DOT, within ninety (90) Days, a final statement and report relating to this Agreement, and the report shall be reviewed by a certified public accountant or a licensed public accountant; and
 - 20.7.4. Providing reasonable assistance, including the assignment of necessary agreements or other documents, to DOT during the transition, if any, to a new contractor.
- 20.8. Upon expiration or termination of this Agreement due to Default by NYCBS, the City shall have the option to:
- 20.8.1. require NYCBS to remove all Equipment at its sole cost and expense;
 - 20.8.2. require NYCBS to assign the Equipment, all related assets (including intellectual property) and, to the extent assignable in accordance with its terms, the agreement with NYCBS' Equipment and Software supplier pursuant to which NYCBS has purchased Equipment from NYCBS to a third party operator, subject to the rights of any lender providing financing to the Program and subject to the condition precedent that the assignee pay NYCBS an amount equal to the then fair market value of such Equipment.
 - 20.8.3. take over operation of the Program, with payment by the City or its designee of the amount due to NYCBS determined as provided in Section 20.10 herein, such amount to be paid as promptly thereafter as it can be determined by DOT and NYCBS in accordance with Section 20.10 herein.
- 20.9. In the event of a termination or expiration, as may be applicable, of this Agreement in accordance with the terms of this Agreement, at the option of DOT or the Recognized Lender upon their mutual agreement exercised by notice to NYCBS given concurrently with such termination or expiration, NYCBS agrees that it shall cooperate with DOT and the Recognized Lender (subject to the reasonable approval of DOT), at no cost to DOT and/or the Recognized Lender, to continue to operate the Program in accordance with the terms of this Agreement and to effect an efficient and orderly transition of responsibility with respect to the operation of the Program until the earlier of (i) one hundred eighty (180) days after such termination and (ii) the selection of a replacement operator for the Program and such replacement operator commencing operation of the Program. The terms of this provision shall survive the termination of this Agreement.

20.10. Prior to the expiration of this Agreement, the City shall consider purchasing or leasing, or requiring a successor operator to purchase or lease, or in the event the City or its designee takes over operation of the Program as contemplated by Section 20.8.2 herein, shall purchase or lease or require a successor operator to purchase or lease, from NYCBS, at its then fair market value as an installed system, all of the Equipment and, for a fair market royalty, acquire a non-exclusive license to use any intellectual property developed by NYCBS (individually and/or collectively the "NYCBS Property") necessary to operate and promote the Program. Fair market value shall be determined by agreement between NYCBS and DOT.

20.11. Upon expiration of this Agreement, NYCBS shall remove all Equipment subject to Section 20.10.

20.12. Upon termination of this Agreement and upon the selection of replacement operator NYCBS will no longer be obligated to provide the Services, but notwithstanding the foregoing, NYCBS shall not be released from any monetary damages.

SECTION 21

EMPLOYMENT AND PURCHASING

21.1. NYCBS will pay wages to all of its employees that equal or exceed the living wage in effect as of the date of this agreement under the New York Living Wage Law.

21.2. NYCBS shall use reasonable efforts, at its own cost and expense, to conduct outreach for employment purposes to residents of the City for the opportunities to be created by the construction, installation, operation, management, administration, marketing and maintenance of the Program. Such recruitment activities shall include provisions for the posting of employment and training opportunities at appropriate City agencies responsible for encouraging employment of City residents. NYCBS shall ensure the promotion of equal employment opportunity for all qualified Persons employed by, or seeking employment with, NYCBS.

21.3. NYCBS shall not refuse to hire, train, or employ, bar or discharge from employment or discriminate against any individual in compensation, hours of employment, or any other term, condition, or privilege of employment, including, but not limited to, any promotion, upgrading, demotion, downgrading, transfer, layoff, or termination, on the basis of race, creed, color, national origin, sex, age, handicap, marital status, affectional preference or sexual orientation, in accordance with applicable law. NYCBS agrees to comply in all respects with all applicable federal, state and local employment discrimination laws and requirements during the Term.

21.4. NYCBS shall select, train and employ such number of employees as is necessary or appropriate for NYCBS to satisfy its responsibilities hereunder. NYCBS shall be the sole authority to hire, terminate and discipline any and all personnel employed by NYCBS, provided however that DOT may reasonably direct the termination or reassignment of a particular employee.

21.5. NYCBS shall designate a full-time employee to oversee its daily operations, and who shall act as the contract administrator for the Program and serve as NYCBS' primary point-person with the City. This individual shall have the requisite amount of experience in operating, managing, and maintaining the Program and operations contemplated herein. The employee shall be accessible to DOT at all reasonable times during normal business hours, to discuss the management, operation and maintenance of the Program, and within a reasonable time frame during non-business hours in the event of an emergency. Consistent failure by such employee to be accessible shall be reported to NYCBS' principals, and if not rectified, shall be grounds for replacement of the employee.

SECTION 22

OVERSIGHT AND REGULATION

22.1. DOT shall have the right at all times to oversee, regulate and inspect periodically the installation, operation, and maintenance of the Program, and any part thereof. NYCBS shall establish and maintain managerial and operational records, standards, procedures and controls to enable NYCBS to demonstrate, in reasonable detail, to the satisfaction of the City at all times throughout the Term, that NYCBS is in compliance with this Agreement. NYCBS shall retain such records for not less than six (6) Years following the expiration or termination of this Agreement.

22.2. To the fullest extent permitted by applicable law either now or in the future, the City reserves the right to adopt or issue such rules, regulations, orders, or other directives that it finds necessary or appropriate in the lawful exercise of its powers, including, but not limited to, its police powers, and NYCBS expressly agrees to comply with all such lawful rules, regulations, orders, or other directives.

22.3. NYCBS shall have and maintain a local office for administrative purposes.

22.4. NYCBS shall be required to submit such reports, at periodic intervals, of all elements of the Program as reasonably required by DOT, including, but not limited to, the reports required pursuant to Section 15.4.

22.5. In the event the City has a good faith reason to believe that NYCBS' fiscal condition may be such that it may become unable to comply with its obligations under this Agreement, NYCBS shall submit to DOT, upon its request, a complete set of the latest general purpose financial statements for a specified past fiscal period prepared in accordance with GAAP, and accompanied by a report from an independent certified public accountant ("CPA") who performed a review of the statements in accordance with the American Institute of Certified Public Accountants' ("AICPA") Professional Standards, not later than twenty (20) business Days from the date such financial statements become available to NYCBS from its CPA. All such statements shall be accurate and complete in all material respects. In the event the City reviews such financial statements and determines in its reasonable discretion that NYCBS' fiscal condition may be such that it may become unable to comply with its obligations under this

Agreement, the City may require NYCBS to submit, and obtain the Commissioner's approval of, a plan setting forth the steps that NYCBS will take to continue to be able to comply with this Agreement.

22.6. Upon the written request of the Commissioner, NYCBS shall promptly submit to the City any non-privileged information that is reasonably related to NYCBS' obligations under this Agreement, its business and operations, or those of any affiliated Person, with respect to the Program or its operations, or any Service, in such form and containing such information as the Commissioner shall specify in writing. Such information or report shall be accurate and complete in all material respects. The Commissioner or the City may provide notice to NYCBS in writing, as set forth in Section 26.7 with regard to the adequacy or inadequacy of such reports, pursuant to the requirements of this Section.

22.7. Throughout the Term, NYCBS shall maintain complete and accurate books of account and records of the business, ownership, and operations of NYCBS with respect to the Program in a manner that allows the City to determine whether NYCBS is in compliance with the Agreement. Should the City reasonably determine that the records are not being maintained in such a manner, then NYCBS shall alter the manner in which the books and/or records are maintained, so that NYCBS comes into compliance with this Section. All financial books and records which are maintained in accordance with GAAP shall be deemed to be acceptable under this Section. NYCBS shall also maintain and provide such additional books and records as the Comptroller or the Commissioner deem reasonably necessary to ensure proper accounting of all payments due the City.

22.8. The City, the Commissioner and the Comptroller, or their designated representatives, shall have the right upon written demand with reasonable notice to NYCBS under the circumstances, to inspect, examine or audit during normal business hours all documents, records or other information which pertain to NYCBS or are related to NYCBS' obligations under this Agreement. All such documents shall be made available at NYCBS' local office. All such documents shall be retained by NYCBS for a minimum of six (6) Years following the expiration or termination of this Agreement. Notwithstanding the foregoing, the Parties acknowledge and agree that the powers, duties, and obligations of the Comptroller pursuant to the provisions of the City's Charter shall not be diminished, compromised, or abridged in any way.

22.9. NYCBS agrees to comply in all respects with the City's "Investigations Clause," a copy of which is attached as Exhibit A.

SECTION 23

RESTRICTION AGAINST ASSIGNMENT

23.1. Except as may otherwise be expressly provided in this Agreement, NYCBS shall not sell, assign or otherwise transfer all or any portion of its interest in this Agreement or in the costs or obligations established under this Agreement or Control thereof, without the prior written consent of DOT. NYCBS shall notify DOT of any proposed sale, assignment or transfer, in

writing, at least sixty (60) Days prior to the proposed effective date of such assignment. In the event that any such sale, assignment or transfer of this Agreement is approved by DOT, the purchaser, assignee or transferee shall agree to be bound by all the covenants of this Agreement required of NYCBS. Any purported sale, assignment or transfer without DOT's approval as required above shall be void and of no force or effect.

SECTION 24

ADDITIONAL SECURITY AND GUARANTEES

24.1. NYCBS shall be solely responsible for obtaining and maintaining current any applicable licenses or permits, as required for the operations contemplated in this Agreement including, but not limited to, any occupational licenses required by law for the conduct of the services contemplated hereunder in all areas in which such are contemplated to be provided.

SECTION 25

RIGHTS OF RECOGNIZED LENDERS

25.1. DOT shall give the Recognized Lender, at the address of the Recognized Lender and in the manner set forth in Section 26.7 hereof, a copy of each notice of Default at the same time as it gives notice of default to NYCBS.

25.2. Subject to the provisions of Section 20 hereof, the Recognized Lender shall, in the case of any default by NYCBS, and prior to any other termination of this Agreement, have a period of ten (10) days more than is given NYCBS, to remedy such default or cause it to be remedied or to proceed under Section 20.9; provided, however, that if the default is not one that can be cured with the payment of money and if the Recognized Lender needs to exercise its remedies and obtain access to its collateral prior to being able to effectuate the cure of any such default, such additional ten (10) day period shall, so long as the Recognized Lender is diligently and continuously pursuing such cure and has provided written notice to DOT of its intent to cure such default, be extended for such additional time as is necessary for the Recognized Lender to obtain such access and commence and effectuate such cure.

25.3. In the event of any termination of NYCBS as the operator under this Agreement, the selection of the replacement operator shall be subject to the reasonable approval of the Recognized Lender, subject to the provisions of Section 20.2.3 hereof.

25.4. In the event of the termination of NYCBS as the operator under this Agreement, the Recognized Lender and DOT shall cooperate to find a replacement operator within sixty (60) days of such termination. If DOT and the Recognized Lender are unable to identify an operator jointly during such sixty (60) day period, the Recognized Lender may:

25.4.1. Select a replacement operator provided such replacement operator; (i) is not a Prohibited Person, (ii) has satisfied the City's Vendex requirements, and (iii)

meets the City's considerations for responsibility per the New York City Procurement Policy Board Rules. Such replacement operator shall assume all obligations under this Agreement; or

25.4.2. assume this Agreement, either based on the terms of this Agreement or through a separate agreement between DOT and the Recognized Lender.

25.5. DOT shall not amend or modify this Agreement without the prior written consent of NYCBS and the Recognized Lender.

25.6. NYCBS shall have the right to collaterally assign its rights under this Agreement to the Recognized Lender as collateral for the Recognized Loan.

25.7. The terms and provisions of this Section 25 and the rights of the Recognized Lender hereunder shall survive any termination of this Agreement.

SECTION 26

MISCELLANEOUS

26.1. All Appendices and Exhibits referenced in this Agreement are deemed to be Appendices and Exhibits of this Agreement, whether or not they are physically attached hereto; and, all such Appendices and Exhibits are incorporated herein by this reference and are expressly made a part of this Agreement. The procedures for approval of any subsequent amendment or modification to any of the Appendices and Exhibits shall be the same as those applicable to any amendment or modification hereof.

26.2. NYCBS shall comply with "Mayoral Executive Order 120 related to Language Access" and DOT's "Language Access Plan", with regard to any aspect of the Program, including, but not limited to, publications, materials, website and Station display, that the general public will utilize during the term of this Agreement.

26.3. NYCBS and DOT acknowledge and agree that the nature of the relationship created by this Agreement requires extensive and ongoing long-term coordination between the Parties. Accordingly, no later than ten business Days after the Effective Date, the City shall designate a DOT employee and NYCBS shall designate an employee as required by Section 21.5, as the individuals responsible for coordinating with the other Party with respect to all matters that may arise from time to time, including matters arising under Section 7, in the course of the Term relating to the installation, maintenance, and operation of the Program. When at any time during the Term any notice is required to be sent to NYCBS, other than a notice pursuant to Section 26.7, such notice shall be sufficient if sent to the above designated individual or his or her representative by e-mail, facsimile, hand delivery, or mail, or to the extent oral notice is specifically permitted in this Agreement, communicated by telephone. Any such oral notice shall only be effective if (a) given to the person identified in this Section or a designee of such

person whose designation is notified to the other Party hereto in writing, and (b) followed reasonably promptly by written notice, which may for such purposes be given by e-mail.

26.4. The prior written approval of DOT's press office is required before NYCBS or any of its employees, servants, agents or independent contractors may, at any time, either during or after completion or termination of this Agreement, make any statement to the press or issue any material for publication through any media of communication bearing on the work performed or data collected under this Agreement. If NYCBS publishes a work dealing with any aspect of performance under this Agreement, or of the results and accomplishments attained in such performance, then DOT shall have a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use the publication, or, in the event that only a portion of the publication deals with an aspect of performance under this Agreement, such portion of the publication.

26.5. The City shall notify NYCBS of any objections to NYCBS' payment calculations and NYCBS shall respond to DOT within five (5) Days.

26.6. In the event that NYCBS receives either a notice of default or a notice of noncompliance from a sponsor, a lender or a material supplier, it shall notify the City and supply a copy of the notice of noncompliance within five (5) Days of receipt.

26.7. All notices shall be in writing and shall be sufficiently given if sent by registered or certified mail, return receipt requested, by overnight mail, or by personal delivery to the address listed below, or to such other location or person as any Party may designate in writing from time to time. Every communication from NYCBS shall be sent to the individual, agency or department designated in the applicable Section of this Agreement, unless it is to "the City," in which case such communication shall be sent to:

If to the City:

At: The Commissioner of DOT
at 55 Water Street,
New York, New York 10041;

with a copy to:

General Counsel,
New York City Department of Transportation,
55 Water Street,
New York, New York 10041.

If to NYCBS:

At: NYC Bicycle Share, LLC,
Attention: Chief Executive,

60 Columbus Circle
New York, New York 10023

If, to Bikeshare Holdings:

At: NYC Bicycle Share, LLC,
Attention: Chief Executive,
60 Columbus Circle
New York, New York 10023

If to the Recognized Lender:

At: Goldman Sachs Bank USA,
200 West Street, New York,
New York 10282,
Attn: Margaret Anadu and Andrea Gift;

with a copy to

Jones Day,
222 East 41st Street,
New York, NY 10017,
Attn: Steven C. Koppel, Esq

26.8. Except as may otherwise be provided herein, the mailing of such notice shall be equivalent to direct personal notice and shall be deemed to have been given when mailed. Any notice required to be given to NYCBS pursuant to Section 20 herein for which a cure period is ten (10) Days or less, which requires action to be taken within ten Days or less, or notifies NYCBS of an event or action that will occur in ten (10) Days or less must be given by personal delivery, overnight mail service or facsimile transmission.

26.9. In addition to the representations, warranties, and covenants of NYCBS to the City set forth elsewhere herein, NYCBS represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) as of the Effective Date:

26.9.1. NYCBS is a New York limited liability company, validly existing and in good standing under the laws of the State of New York, and it is duly authorized to do business in the State of New York and in the City;

26.9.2. The sole owners of NYCBS (after giving effect to the transactions contemplated by the Alta Stock Purchase Agreement) are Alta and Bikeshare Holdings; and

26.9.3. NYCBS has all requisite power and authority to own or lease its properties and assets, to conduct its business as currently conducted and to execute, deliver and perform this Agreement and all other agreements entered into or delivered in connection with or as contemplated hereby.

26.10. The execution, delivery and performance of this Agreement and all other agreements, if any, entered into in connection with the transactions contemplated hereby have been duly, legally and validly authorized by all necessary action on the part of NYCBS and the certified copies of authorizations for the execution and delivery of this Agreement provided to the City pursuant to Section 2.3 are true and correct. This Agreement and all other agreements, if any, entered into in connection with the transactions contemplated hereby have been duly executed and delivered by NYCBS and constitute (or upon execution and delivery will constitute) the valid and binding obligations of NYCBS, and are enforceable (or upon execution and delivery will be enforceable) in accordance with their respective terms, subject to equitable legal principles and the laws governing creditors' rights. NYCBS has obtained the requisite authority to authorize, execute and deliver this Agreement and to consummate the transactions contemplated hereby and no other proceedings or other actions are necessary on the part of NYCBS to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby. Neither the execution and delivery of this Agreement by NYCBS nor the performance of its obligations contemplated hereby will:

26.10.1. Conflict with, result in a material breach of or constitute a material default under (or with notice or lapse of time or both result in a material breach of or constitute a material default under) (i) any governing document of NYCBS or to NYCBS' knowledge, any agreement among the owners of NYCBS, or (ii) any statute, regulation, agreement, judgment, decree, court or administrative order or process or any commitment to which NYCBS is a party or by which it (or any of its properties or assets) is subject or bound;

26.10.2. Result in the creation of, or give any party the right to create, any material lien, charge, encumbrance, or security interest upon the property and assets of NYCBS, except permitted encumbrances under Section 23.1; or

26.10.3. Terminate, breach or cause a default under any provision or term of any contract, arrangement, agreement, license or commitment to which NYCBS is a party, except for any event specified in this Agreement, which individually or in the aggregate would not have a material adverse effect on the business, properties or financial condition of NYCBS or the Program.

26.11. NYCBS has paid all material Agreement, permit, or other fees and charges to the City that have become due prior to the Effective Date, pursuant to this Agreement or any permit or other agreement and that have not been waived or otherwise settled to the satisfaction of DOT.

26.12. Neither NYCBS nor any affiliated Person or any employee or agent of NYCBS has committed or been convicted (where such conviction is a final, non-appealable judgment or the

time to appeal such judgment has passed) of any criminal offense, including, but not limited to, bribery or fraud, arising out of or in connection with (i) this Agreement, (ii) the award of this Agreement, or (iii) any act to be taken pursuant to this Agreement by the City or its officers, employees or agents, or (iv) the business activities and services to be undertaken or provided pursuant to this Agreement.

26.13. NYCBS shall promptly terminate its relationship with any affiliated Person, or any employee or agent of NYCBS, who is convicted (where such conviction is a final, non-appealable judgment or the time to appeal such judgment has passed) of any criminal offense, including, but not limited to, bribery or fraud, arising out of or in connection with: (i) this Agreement, (ii) the award of this Agreement, (iii) any act to be taken pursuant to this Agreement by the City or its officers, employees or agents, or (iv) the business activities and services to be undertaken or provided by NYCBS pursuant to this Agreement.

26.14. In connection with its obligations under this Agreement, NYCBS agrees to comply with the applicable provisions of the Americans With Disabilities Act of 1990, 42 U.S.C. 12132 ("ADA"), the Architectural and Transportation Barriers Compliance Board Guidelines, and any additional applicable federal, state and local laws relating to accessibility for persons with disabilities and any rules or regulations promulgated thereunder, as such laws, rules or regulations may from time to time be amended.

26.15. NYCBS shall not discriminate in the provision of Services on the basis of race, creed, color, national origin, sex, age, handicap, marital status, or real or perceived sexual orientation.

26.16. In the event NYCBS, with the consent of the City as required and in accordance with the provisions of Section 23.1, sells, assigns or otherwise transfers the Program, or any part thereof, or Control thereof to any Person, or to the City or the City's assignee, or in the event this Agreement terminates, NYCBS shall transfer the Program, or such relevant part, in an orderly manner, to maintain continuity of Service.

26.17. NYCBS affirms and declares that it is not in arrears to the City for any debt, contract or taxes and that it is not a defaulter, as a surety or otherwise, upon any obligation to the City, and it has not been declared not responsible, or disqualified, by any agency of the City, nor is there any proceeding pending relating to the responsibility or qualification of NYCBS to receive this Agreement or any other public contracts.

26.18. No material misrepresentation has been made, either oral or written, intentionally or negligently, by or on behalf of NYCBS in this Agreement, in connection with any submission to DOT or the Commissioner, including the Proposal, or in connection with the negotiation of this Agreement.

26.19. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted transferees and assigns. All of the provisions of this Agreement shall apply to the City and NYCBS and their successors and assigns.

26.20. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge and agree that the powers, duties, and obligations of the Comptroller pursuant to the provisions of the City's Charter shall not be diminished, compromised, or abridged in any way.

26.21. The payment of liquidated damages pursuant to the provisions of this Agreement is intended solely to compensate the City for damages incurred from the actual failure to meet the particular obligation and not for failure to meet other obligations that may be construed as related (for example, the obligation to reimburse the City, if the City, pursuant to this Agreement, performs or arranges for the performance of the obligation, the failure of which gave rise to the liquidated damages obligation, indemnification obligations, and monetary consequences of Termination). Nothing in this paragraph or in this Agreement is intended to authorize or shall result in double recovery of damages by the City.

26.22. No failure on the part of the City or NYCBS to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other right, except as provided herein, subject to the conditions and limitations established in this Agreement. The rights and remedies provided herein are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Agreement shall impair any of the rights of the City or NYCBS, as applicable under applicable law, subject in each case to the terms and conditions of this Agreement. A waiver of any right or remedy by the City or NYCBS, as applicable at any one time, shall not affect the exercise of such right or remedy or any other right or other remedy by the City or NYCBS, as applicable at any other time. In order for any waiver of the City or NYCBS, as applicable to be effective, it must be in writing. The failure of the City to take any action regarding a default by NYCBS shall not be deemed or construed to constitute a waiver of, or otherwise affect, the right of the City to take any action permitted by this Agreement at any other time regarding such default.

26.23. The clauses and provisions of this Agreement are intended to be severable. If any clause or provision is declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent portion, and such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect, but only so long as the essential terms underlying this Agreement are not undermined. If, however, the essential terms underlying this Agreement are undermined as a result of any clause or provision being declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, and such declaration is not stayed within 30 Days by a court pending resolution of a legal challenge thereto or an appeal thereof, the adversely affected Party shall notify the other Party in writing of such declaration of invalidity and the effect of such declaration of invalidity and the Parties shall enter into good faith negotiations to modify this Agreement to compensate for such declaration of invalidity, provided, however, that any such modifications shall be subject to all City approvals and authorizations and compliance with all City procedures and processes. If the Parties cannot come to an agreement modifying this Agreement within one hundred and twenty (120) Days (which one hundred and twenty (120) Day period shall be tolled during any stay contemplated

above) of such notice, then this Agreement shall terminate with such consequences as would ensue if it had been terminated by the City pursuant to Section 20 herein.

26.24. In addition, in the event any applicable federal, state, or local law or any regulation or order is passed or issued, or any existing applicable federal, state, or local law or regulation or order is changed (or any judicial interpretation thereof is developed or changed) in any way which undermines the essential terms underlying this Agreement, the adversely affected Party shall notify the other Party in writing of such change and the effect of such change and the Parties shall enter into good faith negotiations to modify this Agreement to compensate for such change, provided, however, that any such modifications shall be subject to all City approvals and authorizations and compliance with all City procedures and processes.

26.25. Any provision of this Agreement which should naturally survive the termination or expiration of this Agreement shall be deemed to do so.

26.26. The headings contained in this Agreement are to facilitate reference only, do not form a part of this Agreement, and shall not in any way affect the construction or interpretation hereof. Terms such as "hereby," "herein," "hereof," "hereinafter," "hereunder" and "hereto" refer to this Agreement as a whole and not to the particular sentence or paragraph where they appear, unless the context otherwise requires. The term "may" is permissive; and, the terms "shall," "must," and "will" are mandatory, not merely directive. All references to any gender shall be deemed to include both the male and the female, and any reference by number shall be deemed to include both the singular and the plural, as the context may require. Terms used in the plural include the singular, and vice versa, unless the context otherwise requires. References in this Agreement to Sections, Appendices and Exhibits are to Sections, Appendices and Exhibits of this Agreement.

26.27. NYCBS shall conduct the work to be performed pursuant to this Agreement as an independent contractor and not as an agent of the City.

26.28. This Agreement shall be deemed to be executed in the City of New York, State of New York, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of New York, irrespective of conflict of laws principles, as applicable to contracts entered into and to be performed entirely within the State of New York.

26.29. All representations and warranties contained in this Agreement shall survive the Term.

26.30. The City and NYCBS agree that any and all claims asserted by or against the City arising under this Agreement or related thereto shall be heard and determined either in a court of the United States located in New York City ("Federal Court") or in a court of the State of New York located in the City and County of New York ("New York State Court"). To effect this Agreement and intent, NYCBS agrees that:

26.30.1. If the City initiates any action against NYCBS in Federal Court or in New York State Court, service of process may be made on NYCBS as provided in Section 26.32 hereof;

26.30.2. With respect to any action between the City and NYCBS in New York State Court; NYCBS expressly waives and relinquishes any rights it might otherwise have: (i) to move or dismiss on grounds of forum non convenience; (ii) to remove to Federal Court outside of the City; and (iii) to move for a change of venue to a court of the State of New York outside of New York County;

26.30.3. With respect to any action between the City and NYCBS in Federal Court, NYCBS expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a United States Court outside of the City; and

26.30.4. If NYCBS commences any action against the City in a court located other than in the City, County, or State of New York, then, upon request of the City, NYCBS shall either consent to a transfer of the action to a court of competent jurisdiction located in the City, County or State of New York or, if the court where the action is initially brought will not or cannot transfer the action, NYCBS shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in the City, County or State of New York.

26.31. Except as otherwise provided in this Agreement, any of the Appendices or Exhibits or applicable law, no provision of this Agreement nor any Appendix or Exhibit shall be amended or otherwise modified, in whole or in part, except by a written instrument, duly executed by the City and NYCBS and approved as required by applicable law.

26.32. If the City initiates any action against NYCBS in Federal Court or in New York State Court, service of process may be made on NYCBS either in person, wherever such company may be found, or by registered mail addressed to NYCBS at its address as set forth in this Agreement, or to such other address as NYCBS may provide to the City in writing.

26.33. NYCBS agrees to comply in all respects with the City's "MacBride Principles", a copy of which is attached as Appendix D. NYCBS agrees to comply in all respects with the City's "Vendex" rules and regulations, as the same may be amended from time to time.

26.34. NYCBS shall:

26.34.1. Comply with all applicable City, state and federal laws, regulations and policies; and

26.34.2. Obtain all licenses and permits that are necessary for the provision of the Services from, and comply with all rules and regulations of, any governmental body having jurisdiction over NYCBS with respect to the Services.

26.35. Nothing in this Agreement shall be construed as a waiver of any local law, rule or regulation of the City or of the City's right to require NYCBS to secure the appropriate permits or authorizations for Equipment installation.

26.36. Nothing in this Agreement shall be construed as a waiver or release of the rights of the City in and to the property of the City. In the event that all or part of the property of the City is eliminated, discontinued, closed or de-mapped, any use of such property of the City as a Station location shall cease upon the effective date of such elimination, discontinuance, closing or de-mapping, unless NYCBS can obtain the right to continue to use such site from any private owner of such property.

26.37. In the event of a breach of this Agreement by any of the Parties, the other Party shall act in good faith and exercise commercially reasonable efforts to mitigate any damages or losses that result from such breach. Notwithstanding the foregoing, nothing contained in this Section shall limit in any respect the Parties' right to indemnification pursuant to Section 18.

26.38. Neither Party shall be liable (including, but not limited to, for payment of liquidated damages) for failure to perform any of its obligations, covenants, or conditions contained in this Agreement, when such failure is caused by the occurrence of an Event of Force Majeure, and such Party's obligation to perform shall be extended for a reasonable period of time, commensurate with the nature of the event causing the delay, and no breach or default shall exist or liquidated damages be payable with respect to such extended period.

26.39. This Agreement may be executed in one or more counterparts which, when taken together, shall constitute one and the same.

[Faint, illegible text, possibly a signature or stamp]

IN WITNESS WHEREOF, the party of the first part, by its Commissioner of The New York City Department of Transportation, duly authorized, has caused its name to be hereunto signed, and the party of the second part, by its manager thereunto duly authorized, has caused its name to be hereunto signed as of the first date above written.

THE NEW YORK CITY
DEPARTMENT OF TRANSPORTATION



By: Polly Trottenberg
Polly Trottenberg
Commissioner

NYC BICYCLE SHARE, LLC



By: Michael Pasquetti
Name MICHAEL PASQUETTI
Title Chief Management Officer

APPROVED AS TO FORM
ENTERED AS TO LEGAL ATTACHMENT

DEPT. OF TRANSPORTATION

OCT 24 '14

OCT 24 2014

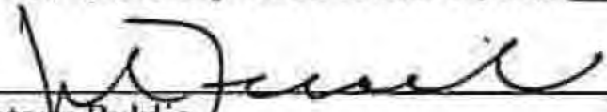


CITY OF NEW YORK)
) SS:
STATE OF NEW YORK)

JOSEPH P. FUCILLO
I, A, a Notary Public in and for the State of New York, residing therein, duly commissioned and sworn, do hereby certify that

Polly Trottenberg, Commissioner of The New York City Department of Transportation, party to the above instrument, personally appeared before me in said State on the 24TH day of OCTOBER, 2014, the said Polly Trottenberg being personally well known to me and who executed the foregoing instrument and acknowledged to me that she executed the same as her free act and deed in her capacity as Commissioner of The New York City Department of the Transportation.

Given under my hand and seal, this 24TH day of OCTOBER, 2014.


Notary Public
My Commission Expires: MAY 24, 2016

JOSEPH FUCILLO
Notary Public, State of New York
No. 02FU8109949
Qualified in Queens County
Commission Expires May 24, 2016



APPENDIX A: SERVICE LEVELS AND LIQUIDATED DAMAGES

All Service Level Agreements are assessed monthly unless otherwise specified. NYCBS and DOT will meet at least every six months to assess the effectiveness of these SLAs and adjust accordingly, subject to mutual agreement.

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
1	Station Cleaning and Inspection	Every Station, as well as all Bicycles present, must be Cleaned, wiped down, and inspected at least one time between the first and fifteenth days of the month, and one time between the sixteenth and last days of the month.	Operator records/ databases	Per Station, per half of month	\$90
2	Bicycle Maintenance	Every Bicycle in the Bicycle fleet ² shall receive a Bicycle Maintenance check and cleaning at least once every calendar month, except: Prior to the earlier of completion of the implementation of the Ability to lock down bikes (with visual indicator) in the Remote Functionality Section of Appendix For 12 months from the Effective Date, 95 percent of Bicycles in the Bicycle fleet will receive a Bicycle Maintenance check and cleaning at least once every calendar month.	Operator records/ databases	Per Bicycle, per month	\$15

¹ Sources of information used to assess compliance with these service levels may include, but are not limited to, those listed in the "Measurement Tool(s)" column.

² For the purposes of SLAs #2 and #2a, a "Bicycle in the Bicycle fleet" shall mean any Bicycle that appears in a Bicycle Fleet Level recording at least one time during the month.

CITY OF NEW YORK)
) SS:
STATE OF NEW YORK)

I, JOSEPH P. FUCCILLO, a Notary Public in and for the State of New York, residing therein, duly commissioned and sworn, do hereby certify that MICHAEL PAGNOZZI, the chief ~~executive~~ ^{MANAGING} officer of NYCBS Bike Share, LLC, party to the above instrument, personally appeared before me in said State on the 24TH day of OCTOBER 2014, the said MICHAEL PAGNOZZI proved to me on the basis of satisfactory evidence and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed in his capacity as a managing member of NYCBS Bike Share, LLC.

Given under my hand and seal, this 24TH day of OCTOBER 2014.

Joseph P. Fuccillo
Notary Public
My Commission Expires: MAY 24, 2016

JOSEPH FUCCILLO
Notary Public, State of New York
No. 02FU6109949
Qualified in Queens County
Commission Expires May 24, 2016



SLA #	Title	Definition	Measurement Tool(s) ³	Units of Measure	Liquidated Damages Per Unit of Measure
2a	Bicycle Maintenance: Accrual	A Bicycle in the Bicycle fleet that has not received at least one Bicycle Maintenance check and cleaning during a period of one calendar month plus seven days, except: Prior to the earlier of completion of implementation of the Ability to lock down bikes (with visual indicator) in the Remote Functionality Section of Appendix For 12 months from the Effective Date, a Bicycle in the Bicycle Fleet that has not received at least one Bicycle Maintenance check and cleaning during a period of two calendar months plus seven days.	Operator records/databases	Per Bicycle, per Day ³	\$15

³ For the purposes of SLA #2a, any portion of a Day shall be calculated as a full Day.

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
3	Resolution of Station Defects Following Discovery or Notification	Instances of deficient, damaged, or unclean Station components, or adverse conditions caused to the surrounding public property by the presence of the Station must be timely resolved following Discovery or Notification. Station Defects fall into the following severity classes, based on whether they are: (i) Defects Impacting the Area Surrounding Station (must be resolved within 24 hours); (ii) Defects Impacting the Usability of Entire Station (must be resolved within 48 hours); (iii) Defects Impacting the Usability of Specific Dock(s) (must be resolved within 48 hours; the requirement to resolve Station Defects in this class is waived until three months from the Effective Date, except in instances where such Station Defects affect more than five docks at a single Station); (iv) Defects Impacting the Appearance of Station (must be resolved within 72 hours). Notifications from DOT related to litter, vandalism, misaligned or damaged Bridging or plates, or defects to Street Treatments or Street Markings may be accompanied by a photo, where practicable.	Dated letters or electronic communications, and operator records/databases	Per Station Defect exceeding resolution time, per month	(i) \$100 (ii) \$50 (iii) \$15 (iv) \$15

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
3a	Accrual of Station Defects Following Discovery or Notification	Every individual instance of a deficient, damaged, or unclean Station component must be resolved within 7 Days of Discovery or Notification. Station Defects fall into the severity classes listed in SLA #3, above.	Dated letters or electronic communications, and operator records/databases	Per instance, per Day ⁴	(i) \$100 (ii) \$50 (iii) \$15 (iv) \$15
4	Resolution of Bicycle Defects Following Discovery or Notification	Instances of deficient, damaged, or unclean Bicycles, or adverse conditions caused to the surrounding public property by the presence of Bicycles must be timely resolved following Discovery or Notification. For the purposes of this SLA, Wrenching of Bicycle by a user will constitute Notification, and removal of Bicycle from service by NYCBS will constitute resolution of defect. Defects related to Bicycles must be resolved within 48 hours if Bicycle is Wrenched, or 96 hours if Bicycle is not Wrenched. In order for Notifications from DOT to be applied to this SLA, DOT inspector must Wrench Bicycle where practicable. Notifications from DOT related to vandalism, cleanliness or defects may be accompanied by a photo, where practicable.	Dated letters or electronic communications, and operator records/databases	Per instance exceeding resolution time, per month	\$15

⁴ For the purposes of SLA #3a, any portion of a Day shall be calculated as a full Day.

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
4a	Accrual of Bicycle Defects Following Discovery or Notification	Every individual instance of a deficient, damaged, or unclean Bicycle must be resolved within 7 Days of Discovery or Notification.	Dated letters or electronic communications, and operator records/databases	Per instance, per Day ⁵	\$15
5	Public Safety Emergency: Station Repair, De-Installation, or Adjustment	In the event of a Public Safety Emergency, a Station must be repaired, De-Installed, or Adjusted as soon as possible, but no later than 12 hours after Notification. Stations De-Installed for Public Safety Emergencies must be reinstalled within 72 hours after the end of the Public Safety Emergency, as determined by DOT. In the event of a large-scale Public Safety Emergency, NYCBS will immediately contact DOT and provide DOT with a specific timeline for Station repair or removal. Upon confirmation and approval of such timeline by DOT, this SLA may be adjusted.	Electronic communications	Per Station, per hour ⁶	\$180 for repair, De-Installation, or Adjustment \$60 for Re-Installation

⁵ For the purposes of SLA #4a, any portion of a Day shall be calculated as a full Day.

⁶ For the purposes of SLA #5, any part of an hour shall be calculated as a full hour.

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
6	Station Deactivation, De-Installation, Re-Installation, and Adjustment	As directed by DOT, NYCBS must perform: (i) Station Deactivation(s); (ii) Station De-Installation(s); (iii) Station Re-Installation(s); (iv) Station Adjustment(s). DOT will provide a minimum of 48 hours advance notice prior to any of the above, except in instances where the continued presence/activity of the Station has been determined to pose a threat to public safety. Deactivated Stations must be reactivated within 24 hours of direction from DOT. De-Installed or Adjusted Stations must be reinstalled or Readjusted to their original configurations within 72 hours of direction from DOT.	Electronic communications	Per Station, per hour ⁷	\$90 for Deactivation, De-Installation, or Adjustment \$60 for reactivation, reinstallation, or Readjustment

⁷ For the purposes of SLA #6, any part of an hour shall be calculated as a full hour.

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
7	Snow Removal	Following snow events, NYCBS must remove snow within 12 hours so as to maintain: (i) Parallel pedestrian clear path adjacent to Stations located on sidewalks and in plazas; and (ii) Perpendicular pedestrian paths through Stations where gaps in Docks provide pedestrian access.⁸ The timeframe for this SLA will begin when the snow ceases to fall. If an occurrence of heavy snow, salt, or ice causes the timeframe in this SLA to not be met, NYCBS will contact DOT and provide DOT with a specific timeline for snow and ice removal. Upon confirmation and approval by DOT, this SLA may be adjusted.	Operator records/databases	Per Station, per 12-hour period ⁹	\$50
8	Program Functionality	The Program is completely unavailable, such that no Program user can dock, undock, and Wrench Bicycles as intended, exclusive of planned Program outages for upgrades and maintenance as agreed upon by NYCBS and DOT and Program outages caused by an Event of Force Majeure. Assessment of this SLA will be inclusive of SLA 9, SLA 10 and SLA11 and no concurrent assessments shall be made for the foregoing enumerated SLAs.	Program databases	Per hour or any portion thereof	\$350

⁸ DOT will provide NYCBS with a list of Stations where perpendicular pedestrian paths must be maintained.

⁹ For the purposes of SLA #7, any portion of a 12-hour shall be calculated as a full 12-hour period.

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
9	Bicycle Availability	This Bicycle Availability requirement is met if the monthly average Bicycle Fleet Level, recorded once each Day of the month between the hours of 11:00 AM and 3:00 PM, meets or exceeds the required Bicycle Fleet Level. (If the service level is met liquidated damages are not calculated, even if some days during the month were below the required Bicycle Fleet Level.) The required Bicycle Fleet Level may be reduced, at NYCBS discretion, to not less than 50 percent of the Program Fleet size from November 15 through March 15. In the event of actual or anticipated extreme weather events or other Program-wide disturbances, NYCBS must contact DOT. Upon prompt agreement by DOT, this SLA may be adjusted.	Program databases	Sum of Bicycle Shortfall for each Day that the recorded Bicycle Fleet Level is less than the required Bicycle Fleet Level	\$15

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
10	Never-Die Stations¹⁰	The minutes of Station Outage at each Never-Die Station shall not exceed three (3) percent of Station-minutes at that Station between the hours of 6:00AM and 12:00AM per month. This SLA shall be adjusted or suspended during snow events and at times when the City has implemented an emergency suspension of alternate side parking following a snow event.	Software System	Never-Die Station-minutes beyond three (3) percent threshold	\$0.50
11	Rebalancing¹¹	No individual Station Outage shall continue for longer than 4 hours. Damages will not accrue between the hours of 10:00PM and 6:00AM.¹² Stations installed in a new portion of the Program Area shall be exempted from the requirements of this SLA until six months after the start of Service in that new portion of the Program Area. This SLA shall be adjusted or suspended during snow events and at times when the City has implemented an emergency suspension of alternate side parking following a snow event.	Software System	Per Station, per hour beyond four (4) hour threshold ¹³	\$30

¹⁰ In order to facilitate the trial of new or experimental methods for addressing Station Outages, NYCBS and DOT may temporarily suspend or adjust this SLA by mutual agreement.

¹¹ In order to facilitate the trial of new or experimental methods for Rebalancing, NYCBS and DOT may temporarily suspend or adjust this SLA by mutual agreement.

¹² While liquidated damages do not accrue between the hours of 10:00PM and 6:00AM, compliance with this service level is evaluated at all times.

¹³ For purposes of calculating liquidated damages, Station Outage durations shall be rounded up to the next full hour.

SLA #	Title	Definition	Measurement Tool(s) ¹	Units of Measure	Liquidated Damages Per Unit of Measure
12	Availability of Data and Reports	(i) Real-time Program data (i.e., JSON feed) will be accurate and available to the public at all times. In addition, the following data sources will be furnished to DOT: (ii) Real-time, read-only access to data as per the Functional Specifications; (iii) Real-time, read-only access to any databases or other record-keeping sources used by NYCBS to manage and operate the Program, including but not limited to all data sources required to determine compliance with the service levels incorporated herein; and (iv) A monthly report as required by Appendix G, "Reporting Requirements."	(i) Software System (ii) Software System (iii) Operator records/databases (iv) Receipt of monthly reports by DOT	(i) Per hour (ii) Per hour (iii) Per hour (iv) Per report, per Day¹⁴	(i) \$100 (ii) \$100 (iii) \$100 (iv) \$50

¹⁴ For the purposes of SLA #12, any part of an hour shall be calculated as a full hour, and any part of a Day shall be calculated as a full Day.

APPENDIX A: EXAMPLE CALCULATIONS

For the purposes of clarity and avoidance of doubt, the following are example calculations for the preceding service levels. The calculations below are hypothetical, and are not reflective of actual Program data from any point in time.

SLA #	Title	Example Scenario	Service Level Evaluation	Liquidated Damages Calculation
1	Station Cleaning and Inspection	In the month of July: 2 Stations were Cleaned only once, before July 15; 3 Stations were Cleaned only once, after July 16; and 1 Station was not Cleaned at any time during July.	Stations were not Cleaned 7 times SERVICE LEVEL IS NOT MET	$\$90 * 7 = \underline{\$630}$
2	Bicycle Maintenance (EXAMPLE 1: AFTER REMOTE LOCK-DOWN)	300 Bicycles did not receive a Bicycle Maintenance check during the month of July.	300 Bicycles were not checked SERVICE LEVEL IS NOT MET	$300 * \$15 = \underline{\$4,500}$
2	Bicycle Maintenance (EXAMPLE 2: PRIOR TO REMOTE LOCK-DOWN)	In July, 5,000 unique Bicycles are included in the daily recordings of Bicycle Fleet Level. 300 Bicycles do not receive a Bicycle Maintenance check during the month of July.	300 Bicycles missed $.05 * 5000 = 250$ $300 > 250$ SERVICE LEVEL IS NOT MET	$300 - 250 = 50$ $50 * \$15 = \underline{\$750}$
2a	Bicycle Maintenance: Accrual (EXAMPLE 1: AFTER REMOTE LOCK-DOWN)	300 Bicycles did not receive a Bicycle Maintenance check during the month of July. Of these 300 Bicycles, 285 receive checks on August 2, 10 receive checks on August 8, and 5 receive checks on August 11.	Of 300 Bicycles not checked during July, 15 Bicycles were not checked by August 7 SERVICE LEVEL IS NOT MET	$(1 * 10) + (4 * 5) = 30$ days (Of the 15 Bicycles not checked by August 7, 10 were checked on August 8, incurring one day of damages each, and 5 were checked on August 11, incurring 4 days of damages each.) $30 * \$15 = \underline{\$450}$

SLA #	Title	Example Scenario	Service Level Evaluation	Liquidated Damages Calculation
2a	Bicycle Maintenance: Accrual (EXAMPLE 2: PRIOR TO REMOTE LOCK-DOWN)	In July, 5000 unique Bicycles are included in the daily recordings of Bicycle Fleet Level. 300 Bicycles do not receive a Bicycle Maintenance check during the month of July. Of those 300, 200 receive a Bicycle Maintenance check during the month of August, 90 receive a check on September 2, and 10 receive a check on September 9.	Of 300 Bicycles not checked during July, 10 were not checked by September 7. SERVICE LEVEL IS NOT MET	$10 * 2 = 20$ days (The 10 Bicycles not checked by September 7 were checked on September 9, incurring 2 days of damages each.) $20 * \\$15 = \\300
3	Resolution of Station Defects Following Discovery or Notification	NYCBS is Notified of 3 broken Docks at 10:00AM on April 8. (These defects fall into severity class iii, "Defects Impacting the Usability of Specific Dock(s)," and must be resolved within 48 hours.) The 3 Docks are repaired at 3:00PM on April 19.	10:00AM on April 8th to 3:00PM on April 19th = 269 hours 3 Docks were not repaired in 48 hours SERVICE LEVEL IS NOT MET	$3 * \\$15 = \\45
3a	Accrual of Station Defects Following Discovery or Notification (EXAMPLE 1)	NYCBS is Notified of 3 broken Docks at 10:00AM on April 8. The 3 Docks are repaired at 3:00PM on April 19.	April 8th to April 19th = 11 Days 3 Docks were not repaired in 7 Days SERVICE LEVEL IS NOT MET	$3 * 4 = 12$ days (The 3 Docks were repaired in 11 days, incurring 4 days of damages each.) $12 * \\$15 = \\180

SLA #	Title	Example Scenario	Service Level Evaluation	Liquidated Damages Calculation
3a	Accrual of Station Defects Following Discovery or Notification (EXAMPLE 2)	NYCBS is Notified of 2 broken Docks at 5:00PM on April 13. The 2 Docks are repaired at 3:00 PM on April 19.	April 13 th to April 19 th = 6 days 2 Docks were repaired within 7 days SERVICE LEVEL IS MET	DAMAGES NOT APPLICABLE
4	Resolution of Bicycle Defects Following Discovery or Notification	NYCBS is Notified of damage to 2 Bicycles at 8:00AM on December 14. (Both Bicycles are Wrenched at the time of Notification.) 1 of the Bicycles is removed from Service at 8:15AM on December 16. 1 of the Bicycles is removed from Service at 3:00AM on December 23.	8:00AM on December 14 th to 8:15AM on December 16 th = 49 hours 8:00AM on December 14 th to 3:00AM on December 23 rd = 211 hours 2 Bicycles were not repaired or removed from service in 48 hours. SERVICE LEVEL IS NOT MET	2 * \$15 = \$30
4a	Accrual of Bicycle Defects Following Discovery or Notification	NYCBS is Notified of damage to 2 Bicycles at 8:00AM on December 14. (Both Bicycles are Wrenched at the time of Notification.) 1 of the Bicycles is removed from Service at 8:15AM on December 16. 1 of the Bicycles is removed from Service at 3:00AM on December 23.	December 14 th to December 16 th = 2 Days December 14 th to December 23 rd = 9 Days 1 Bicycle was not removed from service in 7 Days. SERVICE LEVEL IS NOT MET	1 Bicycle * 2 Days = 2 days (The Bicycle was removed in 9 Days, incurring 2 Days of damages) 2 units * \$15 = \$30

SLA #	Title	Example Scenario	Service Level Evaluation	Liquidated Damages Calculation
5	Public Safety Emergency: Station Repair, De-Installation, or Adjustment (EXAMPLE 1)	At 9:00PM on October 5th, NYCBS is Notified of a Public Safety Emergency that requires 2 Station De-Installations. Station A is De-Installed at 8:00AM on October 6th. Station B is De-Installed at 10:30AM on October 6th.	9:00PM on October 5th to 8:00AM on October 6th = 11 hours 9:00PM on October 5th to 10:30AM on October 6th = 14 hours Station B was not De-Installed in 12 hours. SERVICE LEVEL IS NOT MET	1 Station * 2 hours = 2 hours (Station B was De-installed in 14 hours, incurring 2 hours of damages) 2 hours * \$180 = <u>\$360</u>
5	Public Safety Emergency: Station Repair, De-Installation, or Adjustment (EXAMPLE 2)	Following the event in the example above, DOT Notifies NYCBS that the Public Safety Emergency is over at 10:00AM on October 8th. Station A is reinstalled at 7:30AM on October 11th. Station B is reinstalled at 9:30AM on October 11th.	10:00AM on October 8th to 7:30AM on October 11th = 70 hours 10:00AM on October 8th to 9:30AM on October 11th = 72 hours SERVICE LEVEL IS MET	DAMAGES NOT APPLICABLE
6	Station Deactivation, De-Installation, Reinstallation, and Adjustment (EXAMPLE 1)	On March 6th, DOT directs NYCBS to Deactivate Station C by 6:00AM on March 12th, and Reactivate the Station at 10:00AM on March 13. NYCBS Deactivates the Station at 5:00AM on March 12.	Station C was Deactivated prior to deadline. SERVICE LEVEL IS MET	DAMAGES NOT APPLICABLE

SLA #	Title	Example Scenario	Service Level Evaluation	Liquidated Damages Calculation
6	Station Deactivation, De-Installation, Reinstallation, and Adjustment (EXAMPLE 2)	Following the Deactivation in the example above, NYCBS reactivates Station C at 11:15AM on March 14 th .	10:00AM on March 13 th to 11:15AM on March 14 th = 26 hours SERVICE LEVEL NOT MET	2 hours * \$60 = <u>\$120</u>
7	Snow Removal	For a given snow event, the snow ceases to fall at 1:00PM February 8 th . There are 150 Stations in the Program that have Snow Removal requirements under SLA #7. Of these, NYCBS removes snow as required: - By 9:00PM on February 8th at 147 Stations; - By 3:00PM on February 9th at 1 Station; - By 10:00PM on February 9th at 1 Station; and - By 6:00AM on February 10th at 1 Station.	1:00PM on February 8 th to: 9:00PM on February 8th = 8 hours 3:00 PM on February 9th = 26 hours 10:00PM on February 9th = 33 hours 6:00 AM on February 10th = 41 hours Snow was not removed within 12 hours of end of snow event at 3 Stations. SERVICE LEVEL IS NOT MET	26 - 12 = 14 hours = 2 12-hour periods 33 - 12 = 21 hours = 2 12-hour periods 41 - 12 = 29 hours = 3 12-hour periods (2 + 2 + 3) * \$50 = <u>\$350</u>
8	Program Functionality	In the month of January, there are no planned Software outages for upgrades and maintenance. The Program is not operational from 6:00AM on January 15 th until 6:45AM January 15 th .	6:00AM on January 15 th to 6:45AM on January 15 th = 45 minutes The Program was not operational for 45 minutes which shall be considered one hour. SERVICE LEVEL IS NOT MET	1 hour * \$350 = <u>\$350</u>

SLA #	Title	Example Scenario	Service Level Evaluation	Liquidated Damages Calculation
9	Bicycle Availability (EXAMPLE 1)	The required Bicycle Fleet Level for June is 5,000 Bicycles, and the recorded Bicycle Fleet Levels for June include: 25 days at 5,000 Bicycles; 3 days at 5,100 Bicycles; and 2 days at 4,900 Bicycles.	$((25 * 5,000) + (3 * 5,100) + (2 * 4,900)) / 30 = 5,003$ $5,003 > 5,000$ SERVICE LEVEL IS MET	DAMAGES NOT APPLICABLE
9	Bicycle Availability (EXAMPLE 2)	The required Bicycle Fleet Level for July is 5,000 Bicycles, and the recorded Bicycle Fleet Levels for July include: 26 days at 5,000 Bicycles; 2 days at 5,100 Bicycles; 2 days at 4,900 Bicycles; and 1 day at 4,800 Bicycles.	$((26 * 5,000) + (2 * 5,100) + (2 * 4,900) + (1 * 4,800)) / 31 = 4,994$ $4,994 < 5,000$ SERVICE LEVEL IS NOT MET	$(2 \text{ Days} * 100) + (1 \text{ Day} * 200) = 400 \text{ Days}$ (Only the Bicycle Shortfalls for the Days of the month below the required Bicycle Fleet Level are included in the calculation.) $400 * \$15 = \$6,000$
10	Never-Die Stations	At a given Never-Die Station, two Station Outages occur during the month of July: - From 7:00AM until 5:00PM on July 2, a total of 600 minutes. - From 3:00PM on July 15 until 1:46 AM on July 16, a total of 646 minutes, but because SLA 10 is not in effect after midnight, the effective duration of this Station Outage is 540 minutes.	Allowable minutes of Station Outage = $.03 * (60 \text{ minutes} * 18 \text{ hours}^{15} * 31 \text{ Days}) = 1,005 \text{ minutes}$ Actual minutes of Station Outage = $600 + 540 = 1,140 \text{ minutes}$ $1,140 > 1,005$ SERVICE LEVEL IS NOT MET	$1,140 - 1,005 = 135 \text{ minutes}$ $135 * \$0.50 = \67.50

¹⁵ This service level does not apply between the hours of 12:00AM and 6:00AM; therefore, compliance is based on an 18-hour (1,080-minute) day.

SLA #	Title	Example Scenario	Service Level Evaluation	Liquidated Damages Calculation
11	Rebalancing (EXAMPLE 1)	A given Station has no Available Docks from 7:15AM on October 15 until 3:30PM on the same day, a Station Outage of 8.25 hours.	8.25 > 4 SERVICE LEVEL IS NOT MET	9 – 4 = 5 (The 8.25-hour Station Outage is rounded up to 9 hours.) 5 * \$30 = <u>\$150</u>
11	Rebalancing (EXAMPLE 2)	A given Station is empty of Bicycles from 4:30PM on October 8 until 11:00AM on October 9, a Station Outage of 18.5 hours.	18.5 > 4 SERVICE LEVEL IS NOT MET	19 – 4 = 15 (The 18.5-hour Station Outage is rounded up to 19 hours.) 15 – 8 = 7 (8 of the 15 hours of Station Outage beyond the threshold fall within the hours when liquidated damages do not accrue.) 7 * \$30 = <u>\$210</u>
11	Rebalancing (EXAMPLE 3)	A given Station is empty of Bicycles from 1:00AM on October 10 until 9:00AM on October 10, a Station Outage of 8 hours.	8 > 4 SERVICE LEVEL IS NOT MET	8 – 4 = 4 4 – 1 = 3 (1 of the 4 hours of Station Outage beyond the threshold fall within the hours when liquidated damages do not accrue.) 3 * \$30 = <u>\$90</u>
12	Availability of Data and Reports	Real-time Program data is not available to the public from 8:15AM on April 6 th until 11:30AM on April 6 th .	8:15AM on April 6 th to 11:30AM on April 6 th = 4 hours Real-time Program Data was not available to the public for 4 hours. SERVICE LEVEL IS NOT MET	4 hours * \$100 = <u>\$400</u>

APPENDIX B

Station Planning and Siting Criteria

All Stations shall meet the requirements of this Appendix B, unless otherwise agreed in writing by NYCBS and DOT.

1.0 Planning Criteria

DOT has created a map comprised of a 1,000-foot by 1,000-foot grid laid over the full extents of New York City. (See Exhibit F.) This map (the "Grid") shall be used as the basic planning guideline for ensuring that station locations adhere to the Program Density.

- 1.1 All Stations shall be located within the current Program Area, unless otherwise agreed to in writing by NYCBS and DOT.
- 1.2 One Station shall be located in each Grid square or in an equivalent array. Exceptions to this requirement may be permissible in Grid squares that abut the edge of the Program Area. In addition, individual Grid squares that are unsuitable for bike share may be omitted from the goal of one Station per Grid square and the Program Density calculation upon mutual DOT and NYCBS agreement. Such omitted areas will encompass one or more full Grid squares or an equivalent area and may include, but are not limited to interior sections of large parks; limited access highway infrastructure (e.g., Lincoln Tunnel exits, Brooklyn Bridge approach, etc.); rail yards or other large industrial facilities; bodies of water; large private or otherwise publicly-inaccessible properties; and undeveloped areas.
- 1.3 No Station shall be more than ¼ mile from the next closest Station.
- 1.4 All Station locations shall conform to the Program Density, unless agreed in writing by NYCBS and DOT.
- 1.5 NYCBS shall utilize DOT's Demand Analysis as a basis to determine Station sizes.
- 1.6 DOT shall approve all Station sites.
- 1.7 NYCBS may propose Ancillary Stations that do not meet the requirements in this Appendix B. Ancillary Stations will not be counted towards the preceding metrics for system size and functionality. All Stations included in Program Density calculations, Dock to Bicycle ratio (see section 1.8), or overall Station count must:
 - a. Have 15 or more Docks;
 - b. Be accessible to the public 24 hours per day, 365 days per year; and
 - c. Have a 24 hour per day point of payment terminal or 24 hour payment location associated with the Station within 200 feet of the Station.

- 1.8 The Dock to Bicycle ratio shall be at least 2:1.
- 1.9 NYCBS shall cooperate with DOT to produce Wayfinding Elements and Station Locators for Station Kiosks. NYCBS shall bear production, printing, and installation costs for these elements.
- 1.10 Site Plans.
- a. Prior to the installation, re-installation or adjustment of any Equipment, NYCBS shall provide photographs of each Site along with a Site Plan for DOT approval. No Station may be installed, re-installed or adjusted absent DOT approval of its Site Plan;
 - b. The Site Plan shall conform with all elements and dimensions relevant to the Siting Criteria including but not limited to Street Treatments, Street Markings, relevant utilities, doorways, street and sidewalk widths and obstructions, building numbers and amenities. All Site Plans shall be prepared to scale and must be signed by a New York State-licensed engineer or architect;
 - c. All work must conform to the approved Site Plan; and
 - d. In the event that changes to the DOT-approved Site Plan are required at the time of installation or adjustment, NYCBS shall obtain approval for the necessary changes prior to installation or adjustment and provide DOT with an updated Site Plan reflective of the Station's actual, installed condition within 30 days of such installation or adjustment. Should the Station as installed or adjusted not meet with DOT's approval, NYCBS shall make such changes as requested by DOT.
- 1.11 NYCBS shall schedule and complete Station installation, De-Installation, Re-installation or Adjustment upon receipt of permits and direction from DOT and within the relevant timeframes as specified in Appendix A. DOT shall waive permit application fees for all such work.

2.0 Siting Criteria

The DOT Commissioner reserves the discretion to amend the siting criteria on a case-by-case basis, including based on safety, pedestrian and vehicular traffic volumes, system function and street geometry.

Throughout the Term, NYCBS shall adhere to the following siting criteria:

- 2.1 Stations shall be sited in locations that ensure maximum visibility and safety and that provide unrestricted public access;
- 2.2 Upon request of DOT, NYCBS shall perform an HCM Pedestrian Level of Service analysis at any Site or proposed Site to ensure adequate clearance for pedestrians. NYCBS will conduct at least one weekday hourly count at an appropriate time as determined by DOT to determine pedestrian flows. Any additional information required for this analysis would be the responsibility of DOT;
- 2.3 DOT agrees that with all other things being equal it will work with NYCBS to select Station locations based on maximizing rider usage while maintaining the Program Density;
- 2.4 In connection with the installation, operation, and maintenance of the Equipment, NYCBS shall minimize the extent to which the use of the streets or other property of the City is disrupted;
- 2.5 Whenever possible, Station plates shall not cover or in any way obstruct any utility access points, drains, or any kind of ground access point. However, the overhang of the bike beyond the plate may cover these features.
- 2.6 Bridging
 - a. NYCBS will implement Bridging, or other safe and reasonable alternative as outlined in Appendix F: Functional Specifications, to allow Stations to be installed around utility access points and other obstructions where appropriate or where requested by DOT.
 - b. NYCBS may use Bridging or station plates with no docks to create gaps in Stations at building entrances. Such gaps shall provide easy access through the Station and shall put the Station in compliance with 2.7 below.
- 2.7 Sidewalk Sites;
 - a. Whenever possible, a Station shall not be installed on a sidewalk narrower than 16 feet;
 - b. Stations may be installed on medians provided that there is sufficient clearance to allow for the public to safely access the Station;
 - c. Stations shall not interfere with existing pedestrian travel patterns. Whenever possible, Stations shall be aligned with bus shelters, bike shelters, automatic public toilets, news racks, benches, trees and tree pits, or other amenities, unless existing pedestrian travel patterns suggest alternate locations; and
 - d. Stations shall not be placed:

- i. Within 10 feet of fire hydrants when both the Station and the hydrant are at the curb;
- ii. Within 15 feet in front of the opening of the subway stairs or subway elevators;
- iii. Within 15 feet of a bus stop shelter entrance; or
- iv. Within 5 feet of the main entrance of a major building.

2.8 On-Street Sites;

- a. Stations shall not conflict with traffic Lanes or lanes that become traffic Lanes at certain time zones.
- b. Stations in "No Parking", "No Standing", and "No Stopping" zones are permitted;
- c. NYCBS shall design and install on-street Stations with appropriate Street Treatments and Street Markings to protect Stations from adjacent parking and moving traffic. All such Street Treatments and Street Markings shall be pre-approved by DOT's Division of Traffic;
- d. Stations may be installed at locations that have been "day-lighted" by DOT, for visibility purposes;
- e. NYCBS and DOT will endeavor to minimize loss of metered parking spaces in Site selection; and
- f. Sites shall not be proposed or approved at any of the following locations;
 - i. Within Bus stops; and
 - ii. Within 15 feet of a fire hydrant

2.9 Parks and other City Property

- a. Sites may be permitted in City-owned parks and on other City-owned properties, including pedestrianized spaces, at the sole discretion of the City; and
- b. Appropriateness of Sites in City-owned parks and on other City-owned properties will be determined on a case-by-case basis.

2.10 Private Property

- a. Stations may be permitted on private property with the property owner's permission. Stations located on private property must provide 24 hour unrestricted public access to each Station in order to be counted into Program Density calculations, Dock to Bicycle ratio (see section 1.8), and overall Station count;

- b. Appropriateness of Sites on private property will be determined on a case-by-case basis; and
- c. NYCBS shall work with each private property owner to develop a mutually agreeable License agreement for such locations.

3.0 Program Area Site Selection Process

- 3.1 NYCBS shall survey the Program Area using the siting criteria herein to identify viable Station locations.
- 3.2 DOT and NYCBS shall agree upon a clear process for Site selection and community outreach that may include, but is not limited to:
 - a. Briefings for elected officials, community boards, BIDs, and other community organizations and stakeholders;
 - b. Open houses, informational forums, or equipment demonstrations;
 - c. Community board presentations;
 - d. Online crowd sourcing tool to collect input on the system and Station locations;
 - e. Receipt of written input from stakeholders;
 - f. Presentations to relevant stakeholders including, but not limited to community boards, BIDs, elected officials, civic and community organizations, large property holders, block associations, city agencies, and public authorities, of all technically viable vetted Station location options;
 - g. Community workshops to provide education about the program and hand-on forums for the public to discuss and suggest Station sites;
 - h. Receipt of detailed feedback on potential Station Sites from all stakeholders;
 - i. Planning work to synthesize input for all sources;
 - j. Presentations and briefings to stakeholders on draft final Station Site plan;
 - k. Postings online by DOT and/or NYCBS of draft final and final Station Site plans;

- l. Follow-up briefings;
- m. Receipt of detailed feedback on draft Station Site plan;
- n. Changes to Sites and maps to reflect additional feedback and input;
- o. Site-specific in-person notification.

4.0 Ad-Hoc Site Selection Process

- 4.1 Ad-Hoc station siting may be required in, but not limited to, the following situations:
 - a. Temporary station De-Installation for a period of longer than 15 business days requiring a replacement station location to be selected for Re-Installation.
 - b. Permanent Station relocation.
 - c. Infill to address unmet demand or community request.
- 4.2 DOT and NYCBS shall agree upon a clear process of ad-hoc Station siting and selection. This process will include DOT and NYCBS convening regularly scheduled meetings to discuss De-Installations, Re-Installations, Adjustments, and Infill. These meetings will include, but will not be limited to a review of all available sites in the area where ad-hoc siting is occurring.
 - a. If the ad-hoc Site selection process is initiated in response to an NYCBS request to permanently relocate a Station, NYCBS shall:
 - i. Produce metrics to assess Station productivity. Metrics may include, but are not limited to overall Program Density and geographic extent, Station Usage, maintenance reports, and history of public comments; and
 - ii. Provide DOT with a minimum of 3 months of metric data and any resulting analysis supporting the proposed Station relocation.

5.0 As-Built Drawing Set

- 5.1 In addition to the requirements for Site Plans set out in previous sections of this appendix, NYCBS will provide to DOT a full set of "as-built" drawings for all Stations in the Program Area by 30 Days after the Effective Date.

APPENDIX C

Station Deactivation, De-Installation, Reinstallation and Adjustment

In addition to the requirements of Appendix B regarding planning and siting, all Station Deactivations, De-Installations, reinstallations and Adjustments shall meet the requirements of this Appendix C, unless otherwise agreed to in writing by NYCBS and DOT.

1. General Provisions

- 1.1. NYCBS shall perform Station Deactivations, De-Installations, reinstallations and Adjustments to accommodate changing conditions, as instructed by DOT or, in the event of requests by third parties to NYCBS, upon DOT approval.
- 1.2. NYCBS shall not perform any Station Deactivations, De-Installations, reinstallations and Adjustments without DOT approval.
- 1.3. NYCBS may charge a fee for certain types of Station Deactivations, De-Installations and Adjustments as specified in Section 2 of this Appendix C.
- 1.4. DOT Discretionary Requests.
 - a. Each calendar year, there shall be an annual cap on the number of Discretionary Requests that are not subject to a fee. Such cap shall be equal to five (5) percent of the total number of Stations actually installed in the Program Area rounded up to the nearest whole number.
 - b. Discretionary Requests for the De-Installation of Stations installed in the Program Area shall not be counted towards DOT's annual cap for Discretionary Requests if such requests fall within six months of the initial installation date of such Stations.
 - c. DOT may request additional De-Installations and Adjustments above its annual cap for Discretionary Requests pursuant to the fee structure specified in Section 2 of this Appendix C.
- 1.5. NYCBS, with DOT's assistance, shall conduct all necessary planning and outreach prior to installing any Station and prior to any De-Installation, reinstallation or Adjustment.
- 1.6. NYCBS, with DOT's assistance, shall conduct Site-specific outreach. Such outreach shall include, for example, but is not limited to:
 - a. Properties adjacent to the Station location – outreach shall be made in-person to storefronts, and in-person or via telephone to property management/ownership; and
 - b. Relevant Community boards, elected officials, BIDs, and community groups – outreach shall be made via letter, email or telephone.
 - c. Outreach listed in Appendix B 3.2

2. Fees

- 2.1. NYCBS shall maintain a fee schedule for Deactivations, De-Installations and Adjustments. The fee for Deactivation shall cover the cost of reactivating the Station. The fee for Station De-installation shall cover the cost of Station reinstallation.
- 2.2. The fee schedule in currently in place (dated Summer 2013) shall remain in effect through December 31, 2014 and be the basis for future fees.
- 2.3. NYCBS may revise the fee schedule on an annual basis to reflect changes in actual costs by an increment not to exceed a rate equal to the CPI increase for the trailing four quarters preceding the start of the calendar year. NYCBS shall provide the fee schedule to DOT within five business days of any update.
- 2.4. NYCBS may charge the following parties for Deactivations, Station De-Installations and Station Adjustments:
 - a. Private property owners and their contractors;
 - b. Contractors performing non-emergency work on public property;
 - c. Event producers or organizers of For Profit and Political Special Events;
 - d. DOT for Discretionary Requests exceeding the annual cap.
- 2.5. NYCBS may not charge fees for Station Deactivations, Station De-Installations and Station Adjustments related to:
 - a. Public Works;
 - b. Other Special Events;
 - c. Public Safety Emergencies;
 - d. DOT Discretionary Requests equal to or below the annual cap;
 - e. Requests from City agencies or entities other than DOT, when the affected Station is located on property controlled by such agency or entity.
- 2.6. NYCBS shall be solely responsible for charging and collecting fees for Station Deactivation, Station De-Installation and Station Adjustments. Under no circumstance shall NYCBS seek reimbursement from the City for any unpaid fees.
- 2.7. NYCBS shall perform Station Deactivations, Station De-Installations and Station Adjustments as directed by DOT and in accordance with the timeframes in Appendix A, regardless of whether it has received payment for such work, except in the case of private property owners and their contractors.
- 2.8. To the extent practical, DOT shall include information about the fee schedule and how to contact NYCBS on all relevant event and construction permits.
- 2.9. DOT shall provide NYCBS with an annual list of proposed For Profit and Political Special Events for which NYCBS may charge Station Deactivations, Station De-

Installation and Station Adjustments fees. NYCBS may petition DOT to include other anticipated events that are not included on this list.

3. Notifications

- 3.1. On or about March 31st of each year, DOT will provide a proposed schedule for all instances requiring Station Deactivation, Station De-Installation or Station Adjustment as soon as it is available.
- 3.2. NYCBS must acknowledge the schedule, in writing, with its plans for each instance at least 4 days before the action occurs.

4. Deactivations

- 4.1. Station Deactivations may be done on a temporary basis.
- 4.2. NYCBS shall complete Station Deactivations at least 2 hours before event set-up or work begins.
- 4.3. NYCBS shall reactivate the Station(s) within 24 hours after the event or work ends. Station Deactivations for Public Safety Emergencies shall be reactivated within 72 hours after the end of the emergency condition, as determined by DOT.
- 4.4. Unless agreed to in writing by DOT, NYCBS shall reactivate the Station(s) in the original location and configuration.
- 4.5. Deactivation may require the removal of all Street Treatments as specified by DOT.

5. De-Installations

- 5.1. Station De-Installations may be performed at a specific location on either a temporary or permanent basis.
- 5.2. NYCBS shall complete Station De-Installations at least 24 hours before the event set-up or work is scheduled to begin, unless otherwise instructed by DOT.
- 5.3. For all temporary Station De-Installations, NYCBS shall remove all Street Treatments, but not Street Markings, unless otherwise instructed by DOT.
- 5.4. For all permanent Station De-Installations, NYCBS shall remove all Street Treatments and Street Markings, unless otherwise instructed by DOT.
- 5.5. NYCBS shall reinstall the Station(s) within 72 hours of the conclusion of the event or work.

- a. The time allotted for Station reinstallations may be increased to more than 72 hours, upon request to DOT if the Station(s) are ranked in the bottom 15 percent of all Stations by Station Usage and if the Station De-Installation occurred between December 1st and March 1st, unless:
 - i. The Station(s) is designated as a Never-Die Station; or
 - ii. The next closest Station has been temporarily deactivated or de-installed.
 - b. Notwithstanding the provisions of this paragraph, Stations shall be reinstalled, either in the original or a newly approved location by March 1st unless otherwise instructed by DOT.
- 5.6. Unless agreed to in writing by DOT, NYCBS shall reinstall the Station(s) in the original location and configuration.
- 5.7. Whenever Station De-Installations are done to accommodate work or events that are expected to last longer than 15 business days, NYCBS shall temporarily reinstall the Station(s) in a new, approved location unless DOT provides otherwise in writing.
 - a. NYCBS shall temporarily reinstall Station(s) in new, approved location within 72 hours of Station De-Installation.
 - b. The time allotted for Station reinstallation may be increased to more than 72 hours, upon request to DOT, if the Station(s) are ranked in the bottom 15 percent of all Stations by Station Usage and if the Station De-Installation occurs between December 1st and March 1st, unless:
 - i. The Station(s) is designated as a Never-Die Station; or
 - ii. The next closest Station has been temporarily deactivated or de-installed.
 - c. Notwithstanding the provisions of this paragraph, Stations shall be reinstalled, either in the original or newly approved location by March 1st unless otherwise instructed by DOT.
- 5.8. NYCBS shall provide resources for creation, printing and installation of new Wayfinding Elements and Station Locators for temporary or permanent Station reinstallations in new location(s) with a planned duration greater than 120 days.
- 5.9. NYCBS shall install all Street Treatments within 10 business days of Station reinstallation; and
- 5.10. NYCBS shall install all Street Markings if it is estimated that a Station will be in the new location for longer than 4 months.
- 5.11. To the best of its ability, DOT shall expedite all permitting for Station reinstallation.
- 5.12. In cases of temporary Station De-Installations for DOT milling and paving work which are reinstalled in their original locations, DOT shall replace all approved Street Markings, provided that full, complete, accurate site drawings are provided to DOT for approval at least 5 business days prior to Station De-Installation.
- 5.13. For Station reinstallations in a new location, NYCBS must:

APPENDIX D

MacBRIDE PRINCIPLES PROVISIONS **FOR NEW YORK CITY CONTRACTORS**

ARTICLE I

Local Law No. 34 of 1991 became effective on September 10, 1991 and added Section 6-115.1 to the Administrative Code of the City of New York. The local law provides for certain restrictions on City Contracts to express the opposition of the people of the City of New York to employment discrimination practices in Northern Ireland and to encourage companies doing business in Northern Ireland to promote freedom of work place opportunity.

Pursuant to Section 6-115.1, prospective contractors for Contracts to provide goods or services involving an expenditure of an amount greater than ten thousand dollars (\$10,000), or for construction involving an amount greater than fifteen thousand dollars (\$15,000), are asked to sign a rider in which they covenant and represent, as a material condition of their Contract, that any business in Northern Ireland operations conducted by the Contractor that holds a ten (10%) percent or greater ownership interest and any individual or legal entity that holds a ten (10%) percent or greater ownership interest in the Contractor will be conducted in accordance with the MacBride Principles of non-discrimination in employment.

Prospective Contractors are not required to agree to these conditions. However, in the case of contracts let by competitive sealed bidding, whenever the lowest responsible bidder has not agreed to stipulate to such conditions has submitted a bid within five (5%) percent of the lowest responsible bid for a Contract to supply goods, services or construction of comparable quality, the contracting entity shall refer such bids to the Mayor, the Speaker or other officials, as appropriate, who may determine, in accordance with applicable law and rules, that it is in the best interest of the City that the Contract be awarded to other than the lowest responsible bidder pursuant to Section 313(b)(2) of the City Charter.

In the case of Contracts let by other than competitive sealed bidding, if a prospective Contractor does not agree to these conditions, no agency, elected official or the Council shall award the contract to that bidder unless the entity seeking to use the goods, services or construction certifies in writing that the contract is necessary for the entity to perform its function and there is no other responsible Contractor who will supply goods, services or construction of comparable quality at a comparable price.

- a. Follow the site selection and approval process outlined in Appendix B;
- b. Provide DOT with complete, approved site drawing at least 10 business days prior to Station reinstallation.

6. Adjustments

- 6.1. Station Adjustments may be performed on either a temporary or permanent basis.
- 6.2. Station Adjustments shall not result in reductions in or conflicts with Program operability.
- 6.3. NYCBS shall conduct all necessary planning work and outreach prior to making any Station Adjustments. All Station Adjustments are subject to DOT approval.
- 6.4. When requesting and implementing Station Adjustments, NYCBS shall
 - a. Produce metrics to assess Station productivity. Such metrics shall include, but are not limited to, overall Program Density and geographic extent, Station Usage, maintenance reports and history of public comments; and
 - b. Provide DOT with at least 3 months of metric data and any resulting analysis supporting the proposed Station Adjustments.
- 6.5. DOT and NYCBS shall agree upon a clear process for determining Station Adjustments. Part of the process will include DOT and NYCBS convening regularly scheduled meetings to discuss Station De-Installations, Station reinstallations, Station Adjustments and Infill.
- 6.6. For all Station Adjustments:
 - a. NYCBS shall follow the approval process outlined in Appendix B;
 - b. NYCBS shall adjust Street Treatments as necessary to accommodate the new size or configuration within 10 business days of the Station Adjustment.
 - c. NYCBS shall adjust all Street Markings within 10 business days of the Station Adjustment if it is estimated that the Station will be in the new configuration or size for longer than 4 months.

7. Failure to Perform

- 7.1. In the event that NYCBS refuses or fails to perform a Station Deactivation, Station De-Installation, Station reinstallation or Station Adjustment as directed by the City, the City shall have the right to perform such Station Deactivation, Station De-Installation, Station reinstallation or Station Adjustment without any liability to NYCBS, and NYCBS shall pay to the City the costs incurred in connection with such Station Deactivation, De-Installation, reinstallation or Adjustment and for any other costs or damages incurred by the City, including repair and restoration costs, arising out of the performance of such work.

PART A

In accordance with Section 6-115.1 of the Administrative Code of the City of New York, the Contractor stipulates that such Contractor and any individual or legal entity in which the Contractor holds ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Contractor either: (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of this compliance with such principles.

PART B

For purposes of this section, the following terms shall have the following meanings:

- A. *"MacBride Principles"* shall mean those principles relating to non-discrimination in employment and freedom of work place opportunity which requires employers doing business in Northern Ireland to:
1. Increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;
 2. Take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the work place and while traveling to and from work;
 3. Ban provocative religious or political emblems from the work place;
 4. Publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;
 5. Establish layoff, recall and termination procedures which do not in practice favor a particular religious group;
 6. Abolish all job reservations, apprenticeship restrictions and different employment criteria which discriminate on the basis of religion;

7. Develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from the underrepresented religious groups;
8. Establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and
9. Appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

ARTICLE II ENFORCEMENT OF ARTICLE I

The Contractor agrees that the covenants and representations in Article I above are material conditions to this Contract. In the event the contracting entity receives information that the Contractor who made the stipulation required by this section is in violation thereof, the contracting entity shall review such information and give the Contractor an opportunity to respond. If the contracting entity finds that a violation has occurred, the entity shall have the right to declare the Contractor in default and/or terminate this Contract for cause and procure the supplies, services or work from another source in any manner the entity deems proper. In the event of such termination, the Contractor shall pay to the entity, or the entity in its sole discretion may withhold from any amounts otherwise payable to the Contractor, the difference between the Contract price for the uncompleted portion of this Contract and the cost to the contracting entity of completing performance of this Contract either itself or by engaging another Contractor or Contractors. In the case of a requirements contract, the Contractor shall be liable for such difference in price for the entire amount of supplies required by the contracting entity for the uncompleted term of the Contract. In the case of a construction contract, the contracting entity shall also have the right to hold the Contractor in partial or total default in accordance with the default provisions of the Contract, and/or may seek debarment or suspension of the Contractor. The rights and remedies of the entity hereunder shall be in addition to, and not in lieu of, any rights or remedies the entity has pursuant to this Contract or by operation of Law.

APPENDIX E

Certificate of Insurance Broker

BROKER'S CERTIFICATION

Pursuant to the Contract, every Certificate of Insurance must be accompanied by either the following certification by the broker setting forth the following text and required information and signatures or complete copies of all policies referenced in the Certificate of Insurance. In the absence of completed policies, binders are acceptable.

CERTIFICATION BY BROKER

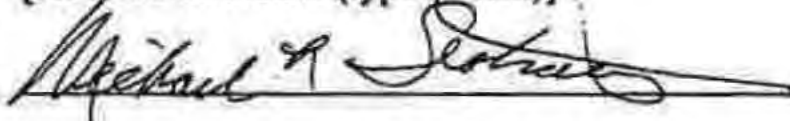
The undersigned insurance broker represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects, and that the described insurance is effective as of the date of this Certification.

Michael L. Seabaugh

[Name of broker (typewritten)]

700 SE Multnomah, Suite 1300, Portland, OR 97232

[Address of broker (typewritten)]



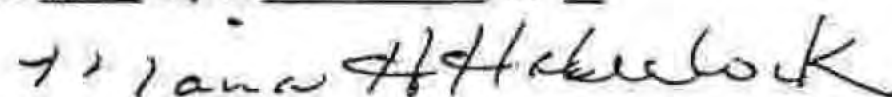
[Signature of authorized official or broker]

USI, Senior Vice President

[Name and title of authorized official (typewritten)]

Sworn to before me

this 6th day of Nov, 20 14



NOTARY PUBLIC



APPENDIX F
Functional Specifications

Appendix F: Functional Specifications

	Timeframes			
	At Effective Date	Completion Date December 31, 2015	Completion Date December 31, 2016	Completion Date December 31, 2017
Software				
Billing				
Product requirements				
Annual and casual billing	X			
Usage charges billing	X			
Discounts	X			
Refunds	X			
Administrative and stolen bike charges	X			
Automatic renewal of accounts	X			
30-day opt out warning for automatic renewal		X		
Configurable settings				
Usage charges and related timeframes	X			
Free time granted to the customer if station is full	X			
Maximum continuous rental period, then bike considered missing / stolen	X			
Maximum late return charge	X			
Billing periods	X			
Number of days prior to expiration an account should be renewed		X		
Ability to block prepaid payment cards or gift cards		X		
Variable pricing/billing for special promotions	X			
Customer records to be editable by customer service				
All contact info (shipping/billing addresses, phone, email)	X			
Billing history		X		
Subscription history		X		
Rental history for trips is logged and not edited. Trips billed are flexible with agent roles and restrictions assigned.		X		
Masked credit card information (first 6 digits, last 4 digits of card) or otherwise required by PCI		X		
Information on account status (active, suspended, expired, cancelled)		X		
Automatic emails to customers				
Ability to turn on and off email notifications to customers		X		
Ability to edit text in emails to customers		X		
Automatic emails in the following instances:				
Upon successful renewal		X		
Upon signup	X			
Upon failed monthly payment		X		
Upon successful monthly payment		X		
Upon credit card change		X		
Upon credit card expiration		X		
Upon account renewal needed (manual billing)	X			
Upon upcoming automatic account renewal (automatic billing)		X		
Upon successfully account renewal		X		
Upon failed account renewal		X		
Upon successful bike return (user configurable)		X		
Upon missing bike (user and system configurable)		X		
Upon incurrence of overage fees		X		
Upon successful opt-out of automatic renewal		X		
Upon system shut down		X		
Upon bike lock-down (to learn customer's reason for lock-down), email or text annotation by customer		X		

	At Effective Date	Completion Date December 31, 2015	Completion Date December 31, 2016	Completion Date December 31, 2017
PCI Compliance				
Full PCI compliance of entire system		X		
Remote functionality				
Ability to shut down system (prevent bikes from being rented)	X			
Ability to lock down bikes (with visual indicator)		X		
Ability to shut down stations			X	
Ability to reboot remotely		X		
Ability to alter message on kiosk screen			X	
Operational Dashboards (The following dashboards should be available at a minimum)				
Subscriptions				
Number of casual users by subscription type		X		
Number of members by subscription type		X		
Customer rental activity				
Number of open rentals and duration of rental		X		
Number of trips and rentals completed by casual and registered members	X			
Missing bikes	X			
Actual ride length and route data after adoption of opt-in from user smartphone GPS. Other methods considered later				X
Station Information Dashboard				
Station status (total, working, out of order, locked, disconnected)				
Station occupancy (current and historical number of public installed stations classified by actual and percentage of bike occupancy)	X			
Docking point status (total, locked, error, empty, last used, bike docked in)		X		
Broken dock point status			X	
Broken bikes at the station	X			
Voltage and battery life remaining at station		X		
Rebalancing activity (station visits, bikes moved)		X		
Fleet level		X		
Inspection and maintenance history				X
Accounting				
The account system should store at a minimum				
Transaction amount	X			
Taxes included in single price (not separately calculated)	X			
Fee type	X			
Date fee was incurred	X			
Date fee was processed	X			
Transaction ID or other identifier that is passed through to the payment gateway	X			
Station transaction occurred at (where applicable)		X		
Customer ID	X			
Payment success or failure	X			

	At Effective Date	Completion Date December 31, 2015	Completion Date December 31, 2016	Completion Date December 31, 2017
Other conditions:				
Past completed payments should be immutable		X		
Historical financial reports should be immutable and consistent		X		
Private data feed				
Continued DOT real-time, direct access to Program databases as provided on September 1, 2014	X			
DOT to have real-time direct access to all data except for customer personal information (names, email/contact information, login info, credit card numbers, address (street and number))		X		
DOT to get ability to determine community board # and other govt jurisdictions of members. DOT to provide translation code.				X
DOT access to all data shown in the station information dashboard in accordance with the timeframes in this Appendix F	X			
Public data feed				
Anonymized Data contained in the live feed should be defined by DOT from available data, free and accessible on NYCBS website, and				
Station Name	X			
Station ID	X			
Station Status (locked/unlocked)		X		
Latitude	X			
Longitude	X			
# of total docking points	X			
# of available docking points	X			
# of inoperable docks (w/ and w/o bikes)				
# of available bikes	X			
Last communication time with CCS		X		
Test/warehouse station (not publicly available)	X			
Product support and redundancy				
Features for product support include				
99.5% system uptime, measured annually		X		
System redundancy		X		
Real-time database backups	X			
Development and QA will be done separate from the production environment		X		
Isolated processing environment for NYC system	X			
Software escrow				
A third-party software escrow with the latest software releases must be maintained at all times		X		
Hardware				
Docking mechanism				
Short-term user can unlock one or multiple bikes (e.g., via valid ride code or key). Casual users can use single credit card to rent 2 bikes.	X			
Subscriber can unlock a bike (e.g., via a valid key or card)	X			
Locking mechanism that opens within 2 seconds of transaction	X			
Locking mechanism that closes immediately with moderate docking force	X			
Defaults to unlocked/open when bike is not present			X	
Functional user lock-down capability ("wrench button") with permanent visual indicator	X			
Visual and audible indication of successful, failed, or in-progress transaction	X			
Ability for casual users to unlock bikes using phone				X

	At Effective Date	Completion Date December 31, 2015	Completion Date December 31, 2016	Completion Date December 31, 2017
Bridging				
Ability to join non-contiguous sections of Docks into a single Station. Physical connectors must have non-skid surfaces, a low profile, internal wiring, ability to sit snug against curb, and must be capable of joining sections of Docks at any angle on a single plane.	X			
Ability to join non-contiguous sections of Docks on multiple planes into a single Station (e.g., some docks on sidewalk, some docks in				X
Bike				
Step through design	X			
Hold someone up to 240 pounds	X			
Can lock and unlock securely	X			
Bell	X			
Front and rear flashing lights when bike is moving; stay illuminated for 60 seconds after bike stops	X			
Reflective sidewalls on tires	X			
Within range, an infinitely adjustable seat height with ergonomic lever/tension adjustment and high-contrast height markings	X			
Carrier not susceptible to trash accumulation	X			
Wheels greater than or equal to 26" in diameter	X			
Fenders for front and rear wheels	X			
Front and rear hand brakes	X			
Multiple speed drivetrain	X			
Scratch- and graffiti-resistant frame finish	X			
Reflectors on pedals, spokes, and front and rear of bike	X			
Rubber tread on pedals	X			
Room for safety messaging on handlebar and front cockpit	X			
Tamper-resistant hardware (including hidden cables and custom wrench fittings)	X			
Chain guard	X			
Compliance with all New York State/City laws	X			
Kiosk station				
Ability to print receipts and customer trip records	X			
Hibernation stage			X	
Screen sleep and suspend			X	
Vandal resistant, replaceable screens			X	
Nearby station functionality		X		
Multiple languages	X			
Chip and Pin Credit card readers			X	
Cry-for-help technology			X	
Working PayPass readers			X	
Ability to connect to electrical grid			X	
Ability to push changes to the following remotely, without a kiosk rebuild:				
Plan prices			X	
Pricing plans			X	
Terms of service / Rental agreement			X	
Software changes			X	

APPENDIX G

Reporting Requirements

NYCBS shall deliver a monthly report, by the 15th day of each month, to the City, with all of the data described below, and in a form that is acceptable to, and approved by, the City's project manager for the Program. Except for financial information, the data shall reflect all relevant facts as they existed with respect to the immediately preceding calendar month (e.g., the June report would reflect the non-financial data for May), and the reports shall provide cumulative calendar year-to-date totals for each category (as may be applicable). For all financial information, the data shall reflect all relevant facts as they existed with respect to the calendar month that immediately precedes the immediately preceding calendar month (e.g., the June report would reflect the financial data for April), and the reports shall provide cumulative calendar year-to-date totals for each category (as may be applicable). No more frequently than once every six months, NYCBS may request a meeting with DOT to assess the effectiveness of these Reporting Requirements; upon mutual agreement, the Reporting Requirements below may be adjusted.

(1) Membership:

- YTD membership counts at the end of the reporting month, by membership type and jurisdiction;
- Number of new members by type and jurisdiction, who signed up during the reporting month, by day and month; and
- Number of cancellations and expirations of registered members, by type and jurisdiction, during the reporting month.

(2) Ridership:

- "Trip" shall mean the use of a Bicycle from one Station to another Station or back to the initial Station;
- Trips per Day, per jurisdiction and member type, for the entire Program;
- Total Trips per month, and YTD per Station, jurisdiction, and member type, for the entire Program;
- Breakdown of total Trips per Day of the week and per hour of the Day, by Station and jurisdiction, for the entire Program;
- Average duration of Trips by Station, jurisdiction, and member type, for the entire Program;
- Average and total length of Trips (straight-line distance) by Station, jurisdiction, and member type, for the entire Program; and
- Distribution of Trip origin and destination by Station.

(3) Environmental Impact:

- Total and average calories burned per Day/month, by jurisdiction and member type, for the entire Program, based on calculation using total and average Trip durations;
- Carbon offset per Day and month, by jurisdiction and for the entire Program, based on calculation using total miles traveled (straight-line distance); and
- Average carbon offset per member and jurisdiction, based on "total members per total carbon offset".

(4) Rebalancing Operations:

- Number of Bicycles rebalanced per Day;
- Bicycles on the street per Day per jurisdiction;
- List of full and empty instances (Station, start time, end time, and date);

- Count of full and empty instances per Station and jurisdiction by Day and month;
- Breakdown of full and empty instances by duration;
- Percentage of time Stations are normal, full, or empty; and
- Breakdown of additional time granted when Stations were full.

(5) Station Maintenance Operations:

- Number of active Stations;
- Count of Station visits by technicians for normal maintenance;
- List of all Station malfunctions (Station, start and end date and time, and event);
- List of all Dock malfunctions (Station, start and end date and time, and event); and
- Percentage of time Stations were available to provide rentals for all membership types by Station and for the entire Program.

(6) Bicycle Maintenance Operations:

- Count of Bicycles checked per Day and month;
- Count of Bicycles repaired per Day and month;
- Average time per repair;
- Breakdown of repair types (minor, major, and annual overhaul); and
- Breakdown of the cause of repair needs (normal wear, crash, warranty failure, and vandalism).

(7) Incident Reporting:

- List of all incidents (crash, vandalism, theft, and police action) with dates and summary of outcomes; and
- Stolen and missing Bicycles list and status.

(8) Customer Service Reporting:

- Number of calls and emails, with total and broken down by classification;
- Average time to answer call;
- Average time of call;
- Number of refunds and amount given per month; and
- Upon call center software availability, number of calls of different types of issues, and average length of call.

(9) Customer Outreach:

- Web site analytics;
- Facebook and twitter posts count and summary;
- Gift certificate sales summary; and
- Corporate membership sales summary.

(10) Financial Summary:

- Revenue generated from subscriptions, by subscription type;
- Revenue generated from usage fees, by subscription type; and
- Revenue generated from other sources, including donations (including in-kind), advertising and sponsorships.

(11) Service levels – data relating to Service levels, as detailed in Appendix A.

EXHIBIT A

Investigations Clause

1. The parties to this Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a United States, State of New York ("State") or City of New York ("City") governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit or license that is the subject of the investigation, audit or inquiry.
2. If any person who has been advised that his or her statement and any information from such statement will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract or license entered into with the City, the State or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City or any public benefit corporation organized under the laws of the State of New York, or
3. If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in and is seeking testimony concerning the award of or performance under any transaction, agreement, lease, permit, contract or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then
4. DOT or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit or license shall convene

a hearing, upon not less than five (5) days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

5. If any non-governmental party to the hearing requests an adjournment, the Commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit or license pending the final determination pursuant to Section 7 below without the City incurring any penalty or damages for delay or otherwise.
6. The penalties which may attach after a final determination by the Commissioner or agency head may include but shall not exceed:
 - a. The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, transacting business with or entering into or obtaining any contract, lease, permit or license with or from the City; and/or
 - b. The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals or fees accrued prior to the cancellation or termination shall be paid by the City.
7. The Commissioner or agency head shall consider and address in reaching his/her determination and in assessing an appropriate penalty the factors in subparagraphs 7.a and 7.b below. He or she may also consider, if relevant and appropriate, the criteria established in subparagraphs 7.c and 7.d below, in addition to any other information which may be relevant and appropriate:
 - a. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not

limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

- b. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
- c. The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.
- d. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under section 6 above, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in section 4 above, gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity shall present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

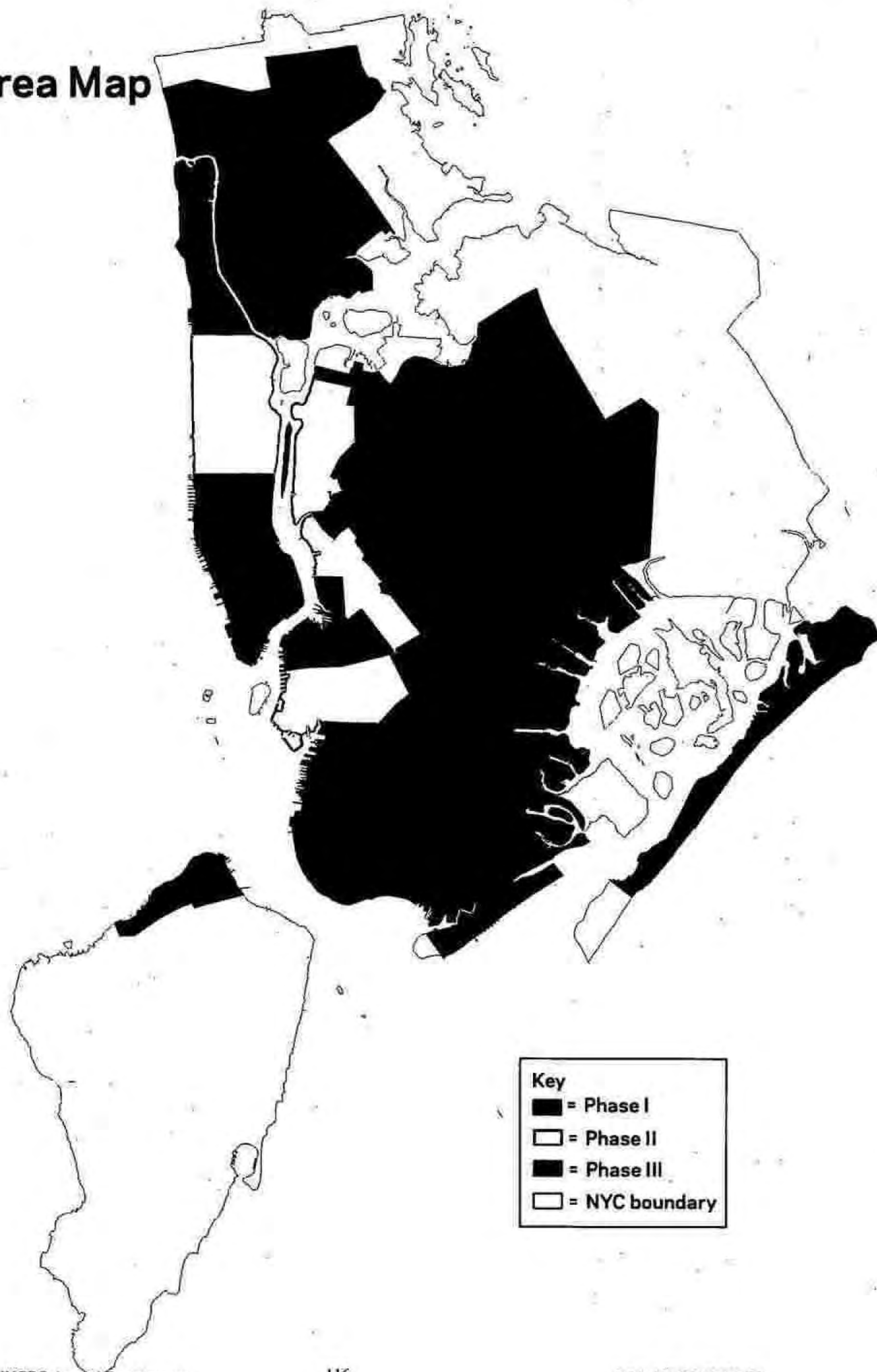
8. Definitions:

- a. The term "*license*" or "*permit*" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.
- b. The term "*person*" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as partner, director, officer, principal or employee.
- c. The term "*entity*" as used herein shall be defined as any firm, partnership, corporation, association, joint venture or person that receives monies, benefits, licenses, leases or permits from or through the City or otherwise transacts business with the City.

d. The term "*member*" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

9. In addition to and notwithstanding any other provision of this Agreement, the Commissioner or agency head may, in his or her sole discretion, terminate this Agreement upon not less than three (3) days written notice in the event the Contractor fails to promptly report in writing, to the Commissioner of the Department of Investigations of the City of New York, any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this Agreement by the non-City party or parties, or affecting the performance of this Agreement.

Exhibit B Program Area Map



Key

- = Phase I
- = Phase II
- = Phase III
- = NYC boundary



EXHIBIT C
Form of Related Guarantee

Related Special Assets, LLC Guarantee

This GUARANTY AGREEMENT (this "Guaranty") is executed as of October 24, 2014, by Related Special Assets, LLC., a Delaware limited liability company ("Guarantor"), for the benefit of The City of New York, Department of Transportation ("DOT").

RECITALS

WHEREAS, NYC Bike Share LLC, a New York limited liability company ("NYCBS") has entered into that certain Amended and Restated Agreement for Bike Share Program, dated as of the date hereof (as the same may be amended, supplemented or otherwise modified from time to time, the "NYCBS/DOT Agreement");

WHEREAS, DOT is not willing to enter into the NYCBS/DOT Agreement unless Guarantor enters into this Guaranty; and

WHEREAS, Guarantor desires to enter into this Guaranty;

NOW, THEREFORE, as an inducement to DOT to enter into the NYCBS/DOT Agreement and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

ARTICLE I. CERTAIN DEFINED TERMS; NATURE AND SCOPE OF GUARANTY

1.01. Guaranty of Guaranteed Obligation.

(a) Guarantor hereby absolutely, unconditionally and irrevocably guarantees to DOT the full payment and performance of the Guaranteed Obligation (as defined below). Guarantor hereby irrevocably and unconditionally covenants and agrees that it shall be liable for the Guaranteed Obligation as a primary obligor and not merely as a surety.

(b) The "Guaranteed Obligation" shall mean NYCBS's obligation to make the payment provided for in section 3.2.3 of the NYCBS/DOT Agreement when, as and if the same ~~shall be due in accordance with the terms of the NYCBS/DOT Agreement.~~

1.02. **Nature of Guaranty.** This Guaranty is an irrevocable, absolute, continuing guaranty of payment and performance of the Guaranteed Obligation, and is not a guaranty of collection. This Guaranty may not be revoked by Guarantor and shall continue to be effective with respect to any of the Guaranteed Obligation arising or created after any attempted revocation by Guarantor. The fact that at any time or from time to time the Guaranteed Obligation may be increased or reduced shall not release or discharge the obligation of Guarantor to DOT with respect to the Guaranteed Obligation.

1.03. **Guaranteed Obligation Not Reduced by Offset.** The Guaranteed Obligation and the liabilities and obligations of Guarantor to DOT hereunder shall not be reduced, discharged or released because or by reason of any existing or future offset, claim or defense of Guarantor, NYCBS or any other party against DOT or against payment and/or performance of

the Guaranteed Obligation, whether such offset, claim or defense arises in connection with the Guaranteed Obligation (or the transactions creating the Guaranteed Obligation) or otherwise.

1.04. **No Duty To Pursue Others.** It shall not be necessary for DOT (and, to the extent permitted by applicable law, Guarantor hereby waives any rights it may have to require DOT), in order to enforce the obligations of Guarantor hereunder, first to (a) institute suit or exhaust its remedies against NYCBS or any other Person, or (b) resort to any other means of obtaining payment of the Guaranteed Obligation.

1.05. **Payment of Expenses.** In the event that Guarantor should breach or fail to timely perform any provisions of this Guaranty, Guarantor shall, immediately upon demand by any of DOT, pay all of DOT's reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees) incurred by DOT in the enforcement hereof or the preservation of DOT's rights hereunder. The covenant contained in this Section 1.05 shall survive the payment and performance of the Guaranteed Obligation.

1.06. **Effect of Bankruptcy.** In the event that, pursuant to any insolvency, bankruptcy, reorganization, receivership or other debtor relief law or any judgment, order or decision thereunder, DOT must pay or repay to or for the benefit of NYCBS or Guarantor or any trustee, receiver or other representative of either or both of them, any amount previously paid to DOT in satisfaction of the Guaranteed Obligation (any of the forgoing, a "Disgorgement"), as set forth herein, Guarantor shall reimburse DOT for any such payment or repayment, and any prior release or discharge from the terms of this Guaranty given to Guarantor by DOT shall be without effect and this Guaranty shall remain in full force and effect until such reimbursement has been made (subject, once again, to the provisions of this Section 1.06). It is the intention of Guarantor that the obligations of Guarantor hereunder shall not be discharged except by Guarantor's performance of such obligations and then only to the extent of such performance.

1.07. **Deferral of Subrogation, Reimbursement and Contribution.** Notwithstanding anything to the contrary contained in this Guaranty, Guarantor hereby unconditionally and irrevocably defers until after the payment and performance of all of the Guaranteed Obligation and the expiration of the period of time under the Federal Bankruptcy Reform Act of 1978 (Title 11 of U.S.C. § 101, et seq.), as amended, and the expiration of the period of time under any other federal or state bankruptcy, insolvency, reorganization, receivership or other debtor relief law, during which any Disgorgement may occur, any and all rights Guarantor may now or hereafter have under any agreement, at law or in equity (including, without limitation, any law subrogating Guarantor to the rights of DOT), to assert any claim against or seek contribution, indemnification or any other form of reimbursement from NYCBS for payment of any or all of the Guaranteed Obligation for any payment made by Guarantor under or in connection with this Guaranty.

ARTICLE II. EVENTS AND CIRCUMSTANCES NOT REDUCING OR DISCHARGING GUARANTOR'S OBLIGATIONS

Guarantor's obligations under this Guaranty shall not be released, diminished, impaired, reduced, limited, terminated or adversely affected by any of the following:

2.01. **Modifications; Assignments; Subleases.** Any renewal, extension, increase, modification, alteration, amendment or assignment of the NYCBS/DOT Agreement and/or all or

any part of the Guaranteed Obligation or any failure of DOT to notify Guarantor of any such action.

2.02. **Adjustment.** Any adjustment, indulgence, forbearance or compromise that might be granted or given by DOT to NYCBS.

2.03. **Condition of NYCBS.** The insolvency, bankruptcy, arrangement, adjustment, composition, liquidation, disability, dissolution or lack of power of NYCBS; or any dissolution of NYCBS; or any sale, lease or transfer of any or all of the assets of NYCBS; or any changes in the shareholders, partners or members of NYCBS; or any reorganization of NYCBS.

2.04. **Invalidity of Guaranteed Obligation.** The invalidity, illegality or unenforceability of all or any part of the Guaranteed Obligation or any document or agreement executed in connection with the Guaranteed Obligation for any reason

2.05. **Release of Guarantor.** Any full or partial release of the liability of NYCBS on the Guaranteed Obligation or any part thereof, it being recognized, acknowledged and agreed by Guarantor that Guarantor may be required to pay the Guaranteed Obligation in full without assistance or support of any other Person, and Guarantor has not been induced to enter into this Guaranty on the basis of a contemplation, belief, understanding or agreement that any other Person will be liable to pay or perform the Guaranteed Obligation, or that DOT will look to any other Person to pay or perform the Guaranteed Obligation.

2.06. **Taking Collateral.** The taking or accepting of any security, collateral or guaranty, or other assurance of payment, for all or any part of the Guaranteed Obligation.

2.07. **Release of Collateral.** Any release, surrender, exchange, subordination, deterioration, waste, loss or impairment of any collateral, property or security at any time existing in connection with, or assuring or securing payment of, all or any part of the Guaranteed Obligation.

2.08. **Care and Diligence.** The failure of DOT or any other party to exercise diligence or reasonable care in the preservation, protection, enforcement, sale or other handling or treatment of all or any part of any collateral, property or security, including but not limited to any neglect, delay, omission, failure or refusal of DOT (i) to take or prosecute any action for the collection of any of the Guaranteed Obligation or (ii) to foreclose, or initiate any action to foreclose, or, once commenced, prosecute to completion any action to foreclose upon any security therefor, or (iii) to take or prosecute any action, assert any claim or demand or to enforce any right or remedy under, or in connection with, the NYCBS/DOT Agreement or any other instrument or agreement evidencing or securing all or any part of the Guaranteed Obligation.

2.09. **Unenforceability.** The fact that any collateral, security, security interest or lien contemplated or intended to be given, created or granted as security for the repayment of the Guaranteed Obligation, or any part thereof, shall not be properly perfected or created, or shall prove to be unenforceable or subordinate to any other security interest or lien, it being recognized and agreed by Guarantor that Guarantor is not entering into this Guaranty in reliance on, or in contemplation of the benefits of, the validity, enforceability, collectability or value of any of the collateral for the Guaranteed Obligation.

2.10. **Offset.** Any existing or future right of offset, claim or defense of Guarantor against DOT, or any other Person, or against payment of the Guaranteed Obligation, whether such right of offset, claim or defense arises in connection with the Guaranteed Obligation (other than the defense of actual payment).

2.11. **Merger.** The reorganization, merger or consolidation of Guarantor or NYCBS into or with any other Person.

2.12. **Preference.** Any payment by Guarantor to DOT is held to constitute a preference under bankruptcy laws, or for any reason DOT is required to refund such payment or pay such amount to Guarantor or someone else.

2.13. **Other Actions Taken or Omitted.** Any other action taken or omitted to be taken with respect to the NYCBS/DOT Agreement or the Guaranteed Obligation, or the security and collateral therefor, whether or not such action or omission prejudices Guarantor or increases the likelihood that Guarantor will be required to pay the Guaranteed Obligation pursuant to the terms hereof, it being the unambiguous and unequivocal intention of Guarantor that Guarantor shall be obligated to pay the Guaranteed Obligation when due, notwithstanding any occurrence, circumstance, event, action, or omission whatsoever, whether contemplated or un contemplated, and whether or not otherwise or particularly described herein, which obligation shall be deemed satisfied only upon the full and final payment, performance and satisfaction of the Guaranteed Obligation.

ARTICLE III. REPRESENTATIONS AND WARRANTIES

Guarantor represents and warrants to DOT, as of the date hereof, as follows:

3.01. **Benefit.** Guarantor is an Affiliate of NYCBS and will receive direct or indirect benefit from the making of this Guaranty.

3.02. **Familiarity and Reliance.** Guarantor is familiar with, and has independently reviewed books and records regarding, the financial condition of NYCBS; however, Guarantor is not relying on such financial condition as an inducement to enter into this Guaranty.

3.03. **No Representation by DOT.** Except as expressly set forth in the NYCBS/DOT Agreement, DOT has not made any representation, warranty or statement to Guarantor to induce Guarantor to execute this Guaranty.

3.04. **Guarantor's Financial Condition.** After giving effect to this Guaranty and the contingent obligation evidenced hereby, Guarantor is solvent and has assets which, fairly valued, exceed its obligations, liabilities (including contingent liabilities fairly estimated) and debts, and has property and assets sufficient to satisfy and repay its obligations and liabilities.

3.05. **Organization.** Guarantor is duly organized, validly existing and in good standing with full power and authority to own its assets and conduct its business, and Guarantor has taken all necessary action to authorize the execution, delivery and performance of this Guaranty by it, and has the power and authority to execute, deliver and perform under this Guaranty and all the transactions contemplated hereby.

3.06. **Legality; No Conflict; Binding Obligations.** The execution, delivery and performance by Guarantor of this Guaranty and the consummation of the transactions

contemplated hereunder do not and will not contravene or conflict with any law, statute or regulation to which Guarantor is subject or constitute a default under, or result in the breach of, Guarantor's organizational documents or any indenture, mortgage, deed of trust, charge, lien, or any contract, agreement or other instrument to which Guarantor is a party or which may be applicable to Guarantor. This Guaranty is a legal and binding obligation of Guarantor and is enforceable in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to the enforcement of creditors' rights or general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

3.07. **No Litigation.** There are no actions, suits or proceedings pending or (to the knowledge of Guarantor) threatened against or affecting Guarantor, which would have a material adverse effect on the ability of Guarantor to pay the Guaranteed Obligation.

3.08. **Financial Information.** The financial information of Guarantor provided to DOT in connection with this Guaranty is true and correct in all material respects and fairly represents the financial condition of Guarantor as of the date thereof in all material respects. Since the date of such financial information there has been no material adverse change in the financial condition of Guarantor from that set forth therein.

All representations and warranties made by Guarantor in this Article III shall survive the execution hereof.

ARTICLE IV. MISCELLANEOUS

4.01. **Waiver; Remedies Cumulative.** No failure to exercise, and no delay in exercising, on the part of DOT, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. The rights of DOT hereunder shall be in addition to all other rights provided by law. No modification or waiver of any provision of this Guaranty, nor consent to departure therefrom, shall be effective unless in writing and no such consent or waiver shall extend beyond the particular case and purpose involved. No notice or demand given in any case shall constitute a waiver of the right to take other action in the same, similar or other instances without such notice or demand, except to the extent such latter notice or demand is required by the express terms hereof. All of the rights and remedies of DOT under the NYCBS/DOT Agreement and under this Guaranty are intended to be distinct, separate and cumulative and no such right or remedy therein or herein mentioned is intended to be in exclusion of or a waiver of any of the others.

4.02. **Notices.** All notices, requests, demands, consents, approvals, disapprovals, determinations and other communications required or permitted to be given hereunder must be in writing and may be given only by (a) personal delivery, (b) overnight delivery (which provides for a signed receipt), or (c) by mail, and if given by mail shall be deemed sufficiently given only if sent by registered or certified mail, return receipt requested, in each case, to the following address of the party to receive such notice. Each notice shall be deemed to have been given or delivered on the earlier to occur of actual delivery or the date on which delivery is refused.

If to DOT:

At: The Commissioner of DOT
55 Water Street
New York, New York 10041;

with a copy to:

General Counsel
New York City Department of Transportation,
55 Water Street
New York, New York 10041.

If to Bikeshare Holdings:

At: Related Special Assets, LLC,
Attention: Chief Legal Officer
60 Columbus Circle
New York, New York 10023

Either party may specify a different address (other than a post office box address) for notice purposes upon at least ten (10) days' prior written notice to the other party pursuant to this Section 4.02. Either party may, at any time, change its notice address and/or the address(es) for the persons to whom copies of notices are to be sent by giving the other party written notice of the new address(es) in accordance with this Section 4.02, except that in such case if actual delivery is after 5:00 PM New York time, the same shall be deemed received on the following business day. In order to be effective a notice must be delivered to all persons (including persons to whom copies of notices are to be sent), as such persons and/or addresses may be changed pursuant to the preceding sentence. Notices for any party may be given by the attorney for such party.

4.03. **Governing Law; Submission to Jurisdiction.** This Guaranty shall be governed by and construed in accordance with the laws of the State of New York and the applicable laws of the United States of America. Any legal suit, action or proceeding against DOT or Guarantor arising out of or relating to this Guaranty may at DOT's option be instituted in any Federal or State court in the City of New York and, to the extent permitted by applicable law, Guarantor waives any objections which it may now or hereafter have based on venue and/or forum non conveniens of any such suit, action or proceeding, and Guarantor and DOT hereby irrevocably submit to the jurisdiction of any such court in any suit, action or proceeding.

4.04. **Invalid Provisions.** If any provision of this Guaranty is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Guaranty, such provision shall be fully severable and this Guaranty shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Guaranty, and the remaining provisions of this Guaranty shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Guaranty, unless such continued effectiveness of this Guaranty, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

4.05. **Amendments.** This Guaranty, and any provisions hereof, may not be modified, amended, extended, restated or changed orally or by any act or failure to act on the part of Guarantor or DOT, but only by an agreement in writing executed by the party against whom such amendment is sought to be enforced.

4.06. **Parties Bound; Assignment; Joint and Several.** This Guaranty shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and their legal representatives; provided, that the Guarantor may not assign any of its rights, powers, duties or obligations hereunder.

4.07. **Headings.** Section headings are for convenience of reference only and shall in no way affect the interpretation of this Guaranty.

4.08. **Recitals.** The recital and introductory paragraphs hereof are a part hereof, form a basis for this Guaranty and shall be considered prima facie evidence of the facts and documents referred to therein.

4.09. **Counterparts.** To facilitate execution, this Guaranty may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all Persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Guaranty to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

4.10. **Entirety.** THIS GUARANTY EMBODIES THE FINAL AND ENTIRE AGREEMENT OF GUARANTOR AND DOT WITH RESPECT TO GUARANTOR'S GUARANTY OF, AND INDEMNITY WITH RESPECT TO, THE GUARANTEED OBLIGATION AND SUPERSEDES ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF. THIS GUARANTY IS INTENDED BY GUARANTOR AND DOT AS A FINAL AND COMPLETE EXPRESSION OF THE TERMS OF THIS GUARANTY, AND NO COURSE OF DEALING BETWEEN GUARANTOR AND DOT, NO COURSE OF PERFORMANCE, NO TRADE PRACTICES, AND NO EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OR OTHER EXTRINSIC EVIDENCE OF ANY NATURE SHALL BE USED TO CONTRADICT, VARY, SUPPLEMENT OR MODIFY ANY TERM OF THIS GUARANTY. THERE ARE NO ORAL AGREEMENTS BETWEEN GUARANTOR AND DOT RELATING TO THE GUARANTEED OBLIGATION.

4.11. **Waiver of Right To Trial By Jury.** EACH OF GUARANTOR AND DOT, BY THEIR ACCEPTANCE EACH HEREOF, WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS GUARANTY OR THE NYCBS/DOT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY GUARANTOR AND DOT, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. GUARANTOR AND DOT ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

4.12. **Reinstatement in Certain Circumstances.** If at any time any payment of any amount due and payable by Guarantor under this Guaranty is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of NYCBS or Guarantor or otherwise and such payment satisfied any Guaranteed Obligation, Guarantor's obligations hereunder with respect to such Guaranteed Obligation shall be reinstated as though such payment has been due but not made at such time.

[Signature Page Follows]

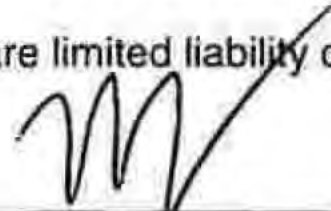
IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be duly executed as of the date first above written.

GUARANTOR:

RELATED SPECIAL ASSETS, LLC,

a Delaware limited liability company



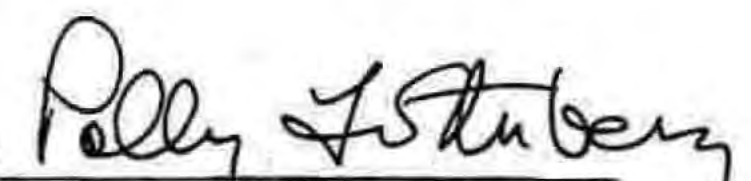
By: 

Name: Jeff Blay

Title: Authorized Signatory

Accepted and agreed as of the date first written above:

The City of New York, Department of Transportation

By: 
Name: Polly Trottenberg
Title: Commissioner





INTENTIONALLY RESERVED

EXHIBIT D

List of Credit Unions

Members of the following credit unions are eligible for affordability memberships:

1. Brooklyn Cooperative Federal Credit Union;
2. Lower East Side People's Federal Credit Union; and
3. NYU Federal Credit Union.

Exhibit E Grid Square Map

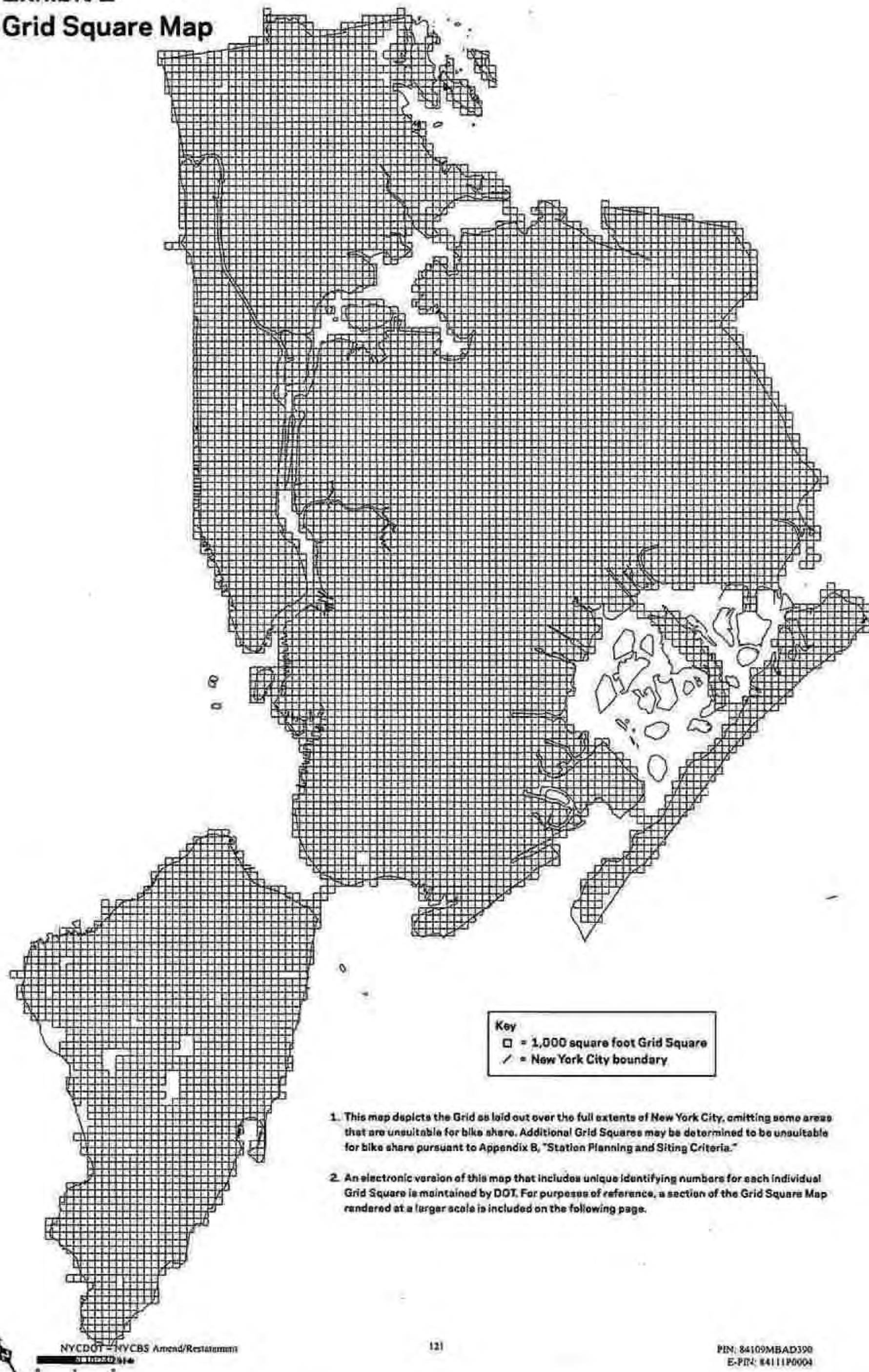


EXHIBIT E
Grid Square Map

Exhibit E

Section of Grid Square Map

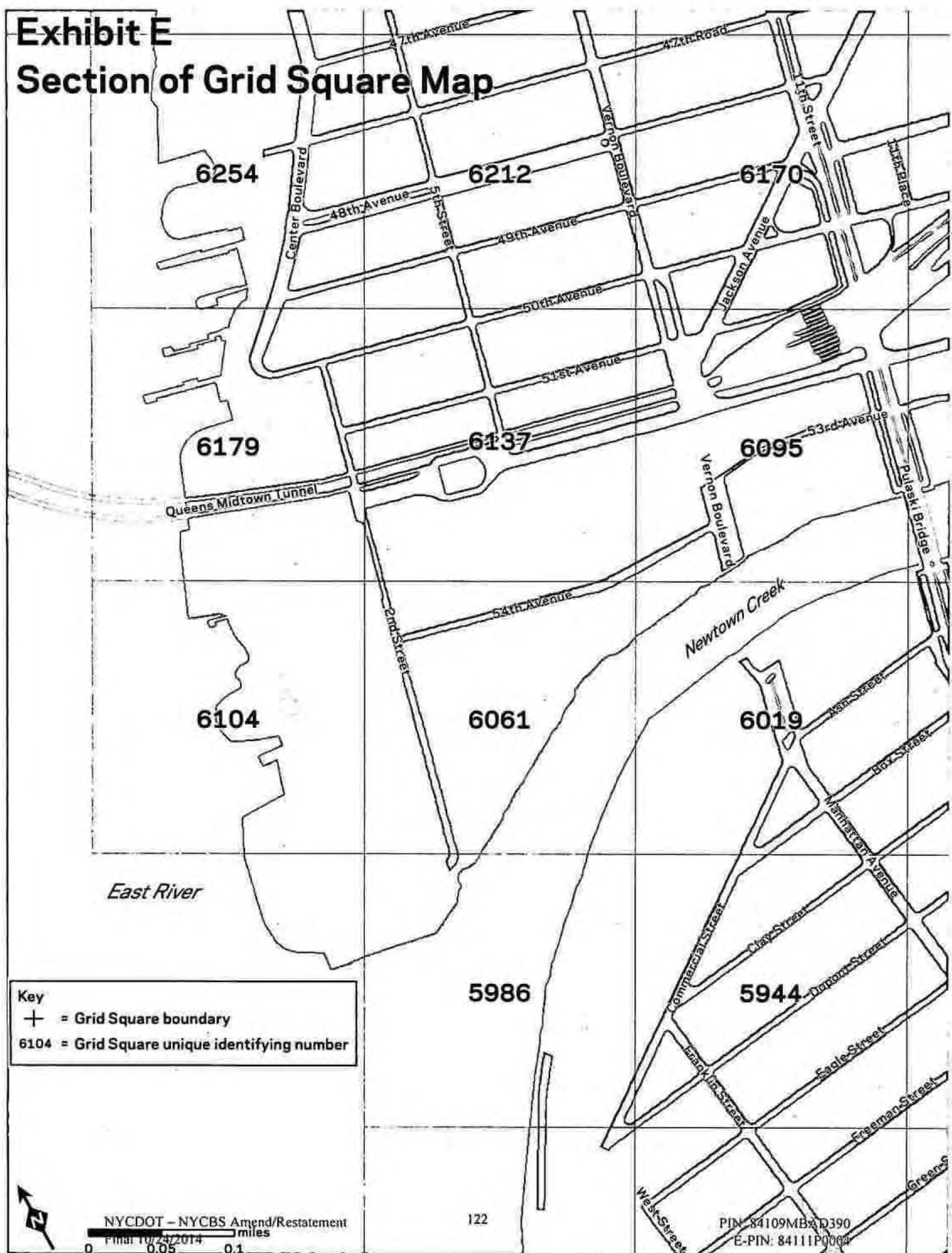
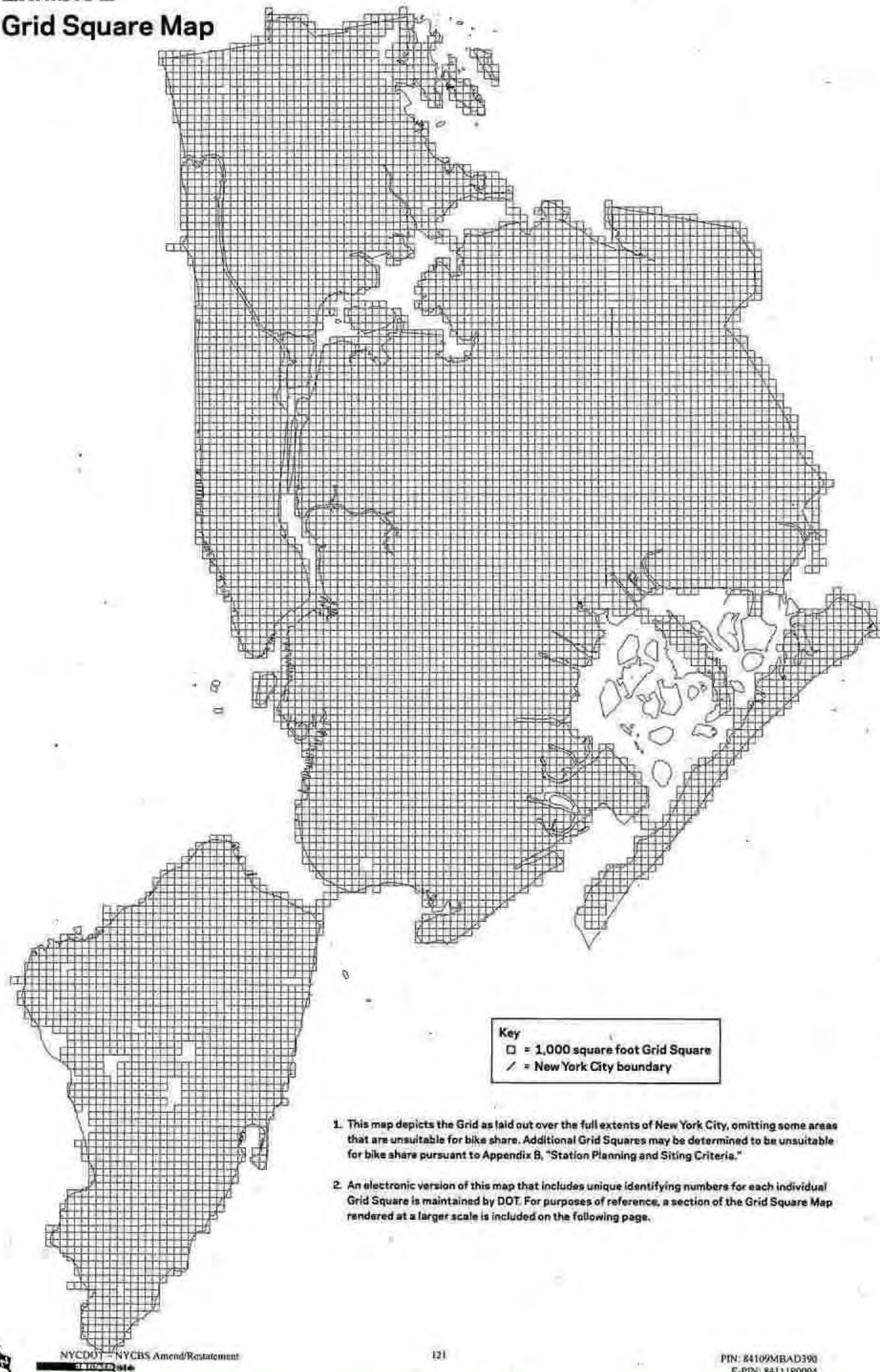


Exhibit E

Grid Square Map





New York State Insurance Fund

Workers' Compensation & Disability Benefits Specialists Since 1914

199 CHURCH STREET, NEW YORK, N.Y. 10007-1100

Phone: (212) 587-5545

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

***** 453091580
NYC BIKE SHARE, LLC
ATTN: KENNETH EZEADICHIE
5202 3RD AVENUE
BROOKLYN NY 11220

POLICYHOLDER

NYC BIKE SHARE, LLC
ATTN: KENNETH EZEADICHIE
5202 3RD AVENUE
BROOKLYN NY 11220

CERTIFICATE HOLDER

THE CITY OF NEW YORK
OFFICE OF CONTRACT ADMIN.
ONE CENTRE STREET
NEW YORK NY 10007

POLICY NUMBER	CERTIFICATE NUMBER	PERIOD COVERED BY THIS CERTIFICATE	DATE
K 2289 024-8	736733	08/04/2013 TO 09/01/2015	8/27/2014

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 2289 024-8 UNTIL 09/01/2015, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW.

IF SAID POLICY IS CANCELLED, OR CHANGED PRIOR TO 09/01/2015 IN SUCH MANNER AS TO AFFECT THIS CERTIFICATE, 10 DAYS WRITTEN NOTICE OF SUCH CANCELLATION WILL BE GIVEN TO THE CERTIFICATE HOLDER ABOVE. NOTICE BY REGULAR MAIL SO ADDRESSED SHALL BE SUFFICIENT COMPLIANCE WITH THIS PROVISION. THE NEW YORK STATE INSURANCE FUND DOES NOT ASSUME ANY LIABILITY IN THE EVENT OF FAILURE TO GIVE SUCH NOTICE.

THIS POLICY DOES NOT COVER THE SOLE PROPRIETOR, PARTNERS AND/OR MEMBERS OF A LIMITED LIABILITY COMPANY.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR, INSURANCE FUND UNDERWRITING

This certificate can be validated on our web site at <https://www.nysif.com/cert/certval.asp> or by calling (888) 875-5790

VALIDATION NUMBER: 768165924

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/22/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Northwest 700 NE Multnomah, Suite 1300 Portland, OR 97232 503 224-8390	CONTACT NAME: Karen Barry PHONE (A/C, No, Ext): 503 224-8390 FAX (A/C, No): 610 362-8130 E-MAIL ADDRESS: karen.barry@usi.biz														
INSURED NYC Bike Share, LLC 5202 3rd Avenue Brooklyn, NY 11220	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Federal Insurance Company</td> <td>20281</td> </tr> <tr> <td>INSURER B: Starr Indemnity & Liability Co.</td> <td>38318</td> </tr> <tr> <td>INSURER C: Atlantic Specialty Insurance Co</td> <td>27154</td> </tr> <tr> <td>INSURER D: Federal Insurance Company</td> <td>20281</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Federal Insurance Company	20281	INSURER B: Starr Indemnity & Liability Co.	38318	INSURER C: Atlantic Specialty Insurance Co	27154	INSURER D: Federal Insurance Company	20281	INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY		35847987	04/09/2014	04/09/2015	EACH OCCURRENCE \$1,000,000
	☒ COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000
	☐ CLAIMS-MADE ☒ OCCUR					MED EXP (Any one person) \$Excluded
	☒ \$10,000 deductible					PERSONAL & ADV INJURY \$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE \$10,000,000
	☒ POLICY ☐ PROJECT ☐ LOC					PRODUCTS - COMP/OP AGG \$Included
D	AUTOMOBILE LIABILITY		73575155	04/09/2014	04/09/2015	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000
	☒ ANY AUTO					BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS	☐ SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	☒ HIRED AUTOS	☒ NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident) \$
						\$
B A	UMBRELLA LIAB	☒ OCCUR	1000010480	04/09/2014	04/09/2015	EACH OCCURRENCE \$5,000,000
	☒ EXCESS LIAB	☐ CLAIMS-MADE				AGGREGATE \$5,000,000
	☐ DED ☒ RETENTION \$none					Excess Liab. \$5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATUTORY LIMITS
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	☐ Y/N ☒ N/A				E.L. EACH ACCIDENT \$
						E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$
C	Property/		7900128920001	03/26/2014	03/26/2015	\$20,000,000 Loss Limit
	Inland Marine Pol					\$ 1,000 deductible
	Replacement Cost					\$5,000 ded.Theft/Vandal

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: NYC Bike Share. The City of New York, including its officials and employees are included as additional insured for General Liability, as required by written contract or agreement, per attached form # 80-02-2367. Coverage is provided on a primary and noncontributory basis, and Waiver of Subrogation is provided as agreed by written contract or agreement.

CERTIFICATE HOLDER The City of New York Attn: Office of Contract Administration One Centre St., Room 10 New York, NY 10007	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Mike Seabaugh</i>
---	--



Liability Insurance

Endorsement

<i>Policy Period</i>	APRIL 9, 2014 TO APRIL 9, 2015
<i>Effective Date</i>	APRIL 9, 2014
<i>Policy Number</i>	3584-79-87 PTL
<i>Insured</i>	NYC BIKE SHARE, LLC
<i>Name of Company</i>	FEDERAL INSURANCE COMPANY
<i>Date Issued</i>	APRIL 2, 2014

This Endorsement applies to the following forms:

GENERAL LIABILITY

Under Who Is An Insured, the following provision is added.

Who Is An Insured

Additional Insured - Scheduled Person Or Organization

Persons or organizations shown in the Schedule are **insureds**; but they are **insureds** only if you are obligated pursuant to a contract or agreement to provide them with such insurance as is afforded by this policy.

However, the person or organization is an **insured** only:

- if and then only in the extent the person or organization is described in the Schedule;
- to the extent such contract or agreement requires the person or organization to be afforded status as an **insured**;
- for activities that did not occur, in whole or in part, before the execution of the contract or agreement; and
- with respect to damages, loss, cost or expense for injury or damage to which this insurance applies.

No person or organization is an **insured** under this provision:

- that is more specifically identified under any other provision of the Who Is An Insured section (regardless of any limitation applicable thereto).
- with respect to any assumption of liability (of another person or organization) by them in a contract or agreement. This limitation does not apply to the liability for damages, loss, cost or expense for injury or damage, to which this insurance applies, that the person or organization would have in the absence of such contract or agreement.



Liability Endorsement
(continued)

Under Conditions, the following provision is added to the condition titled Other Insurance.

Conditions

**Other Insurance –
Primary, Noncontributory
Insurance – Scheduled
Person Or Organization**

If you are obligated, pursuant to a contract or agreement, to provide the person or organization shown in the Schedule with primary insurance such as is afforded by this policy, then in such case this insurance is primary and we will not seek contribution from insurance available to such person or organization.

Schedule

Persons or organizations that you are obligated, pursuant to a contract or agreement, to provide with such insurance as is afforded by this policy.

All other terms and conditions remain unchanged.

Authorized Representative



STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF INSURANCE COVERAGE UNDER THE NYS DISABILITY BENEFITS LAW

PART 1. To be completed by Disability Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name and Address of Insured (Use street address only) NYC Bike Share LLC 5202 3rd Ave Brooklyn, NY 11220	1b. Business Telephone Number of Insured 503-230-9862 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 45-3091580
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) THE CITY OF NY C/O DOT PERMIT OFFICE OF PERMIT MANAGEMENT 55 WATER ST NEW YORK NY 10041	3a. Name of Insurance Carrier The Standard Life Insurance Company of New York P.O. Box 5031, White Plains, NY 10602-5031 3b. Policy Number of entity listed in box "1a": 751570 3c. Policy effective period: 1/1/14 to 1/1/15

4. Policy covers:

- a. ☒ All of the employer's employees eligible under the New York Disability Benefits Law
b. ☐ Only the following class or classes of the employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability Benefits insurance coverage as described above.

Date Signed 9/23/14 By [Signature]
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 971-321-8097 Title Account Specialist

IMPORTANT: If box "4a" is checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is **COMPLETE**. Mail it directly to the certificate holder.
If box "4b" is checked, this certificate is **NOT COMPLETE** for purposes of Section 220, Subd. 8 of the Disability Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, 20 Park Street, Albany, New York 12207.

PART 2. To be completed by NYS Workers' Compensation Board (Only if box "4b" of Part 1 has been checked)

State Of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of NYS Workers' Compensation Board Employee)

Telephone Number _____ Title _____

Please Note: Only insurance carriers licensed to write NYS disability benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1. Insurance brokers are NOT authorized to issue this form.

Additional Instructions for Form DB-120.1

By signing this form, the insurance carrier identified in box "3" on this form is certifying that it is insuring the business referenced in box "1a" for disability benefits under the New York State Disability Benefits Law. The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed as the certificate holder in box "2". *This Certificate is valid for the earlier of one year after this form is approved by the insurance carrier or its licensed agent, or the policy expiration date listed in box "3c".*

Please Note: Upon the cancellation of the disability benefits policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of NYS Disability Benefits Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Disability Benefits Law.

DISABILITY BENEFITS LAW

§220. Subd. 8

(a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article, and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided by this article.

