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THE CITY OF NEW YORK
DEPARTMENT OF TRANSPORTATION

JANETTE SADIK-KHAN
COMMISSIONER

AGREEMENT

FOR

BIKE SHARE PROGRAM

between

The City of New York
Department of Transportation

and

NYC Bike Share, LLC

April 13, 2012

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AGREEMENT FOR BIKE SHARE PROGRAM

THIS AGREEMENT FOR BIKE SHARE PROGRAM, dated as of and binding and effective as of the date on the cover page hereof ("Effective Date"), is entered into 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 320 E 46th Street #11H, New York, New York 10017 (the City and NYCBS may individually be called "Party" and may collectively be called "Parties"), 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 Bicycle Share, Inc., an Oregon corporation ("Alta"), the sole owner of NYCBS submitted the proposal in response to the RFP, to DOT; 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; 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, 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 "ADA" shall have the meaning given in Section 26.14 hereof.

1.2 "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.

1.3 "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.

1.4 "Agreement" shall mean this Agreement, together with all Appendices and Exhibits hereto and all amendments or modifications hereof or thereof.

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

1.6 "Bicycle Fleet Level" shall mean all the Bicycles that are operational, on-the-street and available for public use.

1.7 "Commissioner" shall mean the Commissioner of DOT, or his or her designee, or any successor in function to the Commissioner.

1.8 "Comptroller" shall mean the Comptroller of the City, the Comptroller's designee, or any successor in function to the Comptroller.

1.9 "Contract Year" shall have the meaning given in Section 10.1.2 hereof.

1.10 "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.

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

1.12 "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.

1.13 "DOT" or the "Department" shall mean the Department of Transportation of the City, its designee, or any successor thereto.

1.14 "DOT Siting Criteria" shall have the meaning set forth in Appendix B.

1.15 "Equipment" shall include Stations, Kiosks, Docks and Bicycles, either individually or in any combination thereof.

1.16 "Force Majeure Event" shall have the meaning given in Section 20.3.

1.17 "Go Live Date" shall have the meaning given in Section 2.2.

1.18 "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.

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

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

1.21 "Mayor" shall mean the chief executive officer of the City or any designee thereof.

1.22 "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.

1.23 "NYCBS" shall mean NYC Bike Share LLC, a wholly-owned subsidiary of Alta, and all of its successors and assigns as authorized under Section 26.9.

1.24 "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.

1.25 "Plans and Specifications" shall mean the plans, specifications, and designs for the Equipment as set forth in Appendix F.

1.26 "Program" shall mean Equipment, Sites, website, Backend Software and Computer Hardware and the Services.

1.27 "Program Area" shall mean that portion of New York City within which Stations have been installed, as such may change from time to time during the Term (defined below).

1.28 "Program Fleet" shall mean the total number of Bicycles procured for the Program.

1.29 "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.

1.30 "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.

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

1.32 "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.

1.33 "Recognized Lender" means the holder of a Recognized Loan.

1.34 "Security Fund" shall have the meaning given in Section 17.

1.35 "Services" shall mean the installation, operation and maintenance of the Stations and the acquisition, placement, maintenance and rental to users of the Bicycles.

1.36 "Site" shall mean a designated area on publicly or privately owned real property, which area contains a Station.

1.37 "Site Agreement" shall mean a written confirmation that allows NYCBS to place a Station at a Site.

1.38 "Site Plan" shall mean a scaled plan view of the Site, illustrating existing surface features and proposed improvements.

1.39 "Software" shall have the meaning given in Section 2.5.

1.40 "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.

1.41 "Station" shall mean a Kiosk and a variable number of Docks.

1.42 "Term" shall mean the term of this Agreement, as described in Section 2.2.

1.43 "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.

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

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

1.46 "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. The "Go Live Date" shall be defined as the first date that the Program is made available to the general public which date shall not be later than July 31, 2012. The initial Term of this Agreement shall be for five (5) Years, commencing upon the Go Live Date and ending on the day before the fifth anniversary of the Go Live Date (the "Initial Term"). The Initial Term may be renewed for up to two (2) additional terms of five (5) Years each, in DOT's sole discretion, 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").

2.3. The City acknowledges receipt from NYCBS of all of the following items and documents, and the City agrees that as of the Effective Date each such item and document 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 thereto, provided, however, that this acknowledgement and agreement in no way releases any of NYCBS's ongoing obligations with respect to such items under this Agreement: (i) evidence as described in Section 19.8 of NYCBS's insurance coverage; (ii) 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; (iii) an IRS W-9 form, certifying NYCBS's tax identification number; (iv) organizational and authorizing documents as described in Section 26.9; and (vi) fully completed and up-to-date questionnaires in connection with Vendex, which have received a favorable review by the City.

2.4. All Equipment shall, at all times during the Term, be the property of NYCBS, subject to the provisions of Section 20 and subject to the lien thereon by any Recognized Lender.

2.5. NYCBS has acquired, subject to the payment of monthly license and maintenance fees, licenses for the software components necessary for purpose of operating the Program (all such software, collectively referred to hereinafter as the "Software," which for purposes of this Agreement will mean the software programs in object code format only together with any manuals and documentation) and is permitted to grant the City a valid, non-exclusive sublicense, or equivalent rights to reproduce, operate, and use the Software for the sole purpose of operating the Program. The City acknowledges that it is not entitled to receive a copy of the source code of the Software.

2.5.1. During the Term, NYCBS (or any successor thereof) and the City must not purchase, license, or benefit from any third party's software that is used to operate a bike share system; provided, however, that any third party may create, develop, and sell to anyone any mobile application to be used by general public for the purpose of obtaining information related to the Program such as locating the Stations and Bicycles.

2.5.2. The City must not directly or indirectly:

(a) Sell, lease, license, sublicense, loan, encumber, or otherwise transfer the Software, in whole or in party, to any third party (except pursuant to Section 20.8.2 herein or to an assignment of this Agreement to a Recognized Lender);

(b) Decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code of any portion of the Software;

(c) Write or develop any derivative software or any other software program based on the Software, except with respect to any mobile application to be used by the general public for the purpose of obtaining information related to the Program, such as locating the stations and bicycles;

(d) Make modifications, corrections, alterations, enhancements, or other additions to the Software, save if the release conditions of the applicable software escrow are met;

(e) Make the Software available to a third party by "bulletin boards", online services, remote dial-in or network, or telecommunication links of any kind; or

(f) Use the Software or allow someone to use the Software otherwise than for the Program.

2.6. All usage data generated by the Program, excluding technical or proprietary data such as technical specifications of the Equipment, that is recorded and maintained by NYCBS' software subcontractor, and will be the property of DOT. NYCBS shall be permitted to use such data in an aggregate form for any other purpose, including the promotion of bike share systems around the world after receiving approval from the City.

2.7. NYCBS represents and warrants that the Plans and Specifications and Software:

2.7.1. With respect to the Software only, are validly licensed or sublicensed to NYCBS;

2.7.2. 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;

2.7.3. Do not constitute defamation or invasion of the right of privacy.

2.8. Station removal and relocation shall be undertaken as set forth in Appendix C.

2.9. Every six months, NYCBS will coordinate with DOT, Sponsorship entities and Recognized Lenders 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 Bicycle Fleet Levels are subject to the reasonable approval of DOT.

2.10. 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, NYCBS shall install 420 Stations and 7,000 Bicycles in the Program Area illustrated in Exhibit B (referred to herein as "Phase I").

3.2. On or before the Go Live Date, NYCBS shall install, according to the siting criteria in Appendix B, 1,000 Bicycles, with an appropriate number of Stations to meet the service demands, in the Phase I Program Area. Upon completion of installation, such Equipment shall be fully operational.

3.3. Within 10 business Days after the Go Live Date and for each subsequent 10 business Day period, NYCBS shall install at a minimum, according to siting criteria in Appendix B, an additional 75 Stations, with an appropriate number of Bicycles to meet the service demands, within the Phase I Program Area. NYCBS shall continue such installation until all Phase I Equipment is fully installed and operational, but not later than September 30, 2012.

3.4. For the second phase of the Program, NYCBS shall, to the extent the necessary and appropriate financial resources are obtained and available for the purpose (as reflected in Sections 3.5 and 3.6 below), install a further 180 Stations and 3,000 Bicycles in the Program Area (referred to herein as Phase II) . Phase II may be installed in part or in a sequence of parts, to the extent, as further provided in Sections 3.5 and 3.6 below, partial funding for Phase II becomes available.

3.5. A reasonable number of satellite Stations, clustered geographically and not contiguous to the Program Area but subject to all requirements set forth herein for Stations (such additional Stations being referred to herein as "Satellites" but not illustrated in Exhibit B) shall be included in Phase I and/or Phase II.

3.6. As funding is available in the Phase II Reserve Account, NYCBS shall withdraw such funding to purchase and install Phase II Equipment, according to the siting criteria in Appendix B, at the maximum rate feasible to the extent approved by DOT and the Recognized Lender. NYCBS shall continue such installation until all Phase II Equipment is fully installed and operational.

3.7. NYCBS shall deposit all proceeds of "Later Round Sponsorship and Advertising" arrangements into an account (the "Phase II Sponsorship Account") reserved for spending on purchase of the Equipment for such Phase II up to an amount which is necessary to bring the Phase II Sponsorship Account, in combination with the Phase II Reserve Account, to a funding level reasonably expected to be sufficient to fully fund completion of Phase II. If Phase II is completed and amounts remain in the Phase II Sponsorship Account, or the Term ends prior to the completion of Phase II, the remaining amounts in the Phase II Sponsorship Account shall be treated as Operating Revenue under Section 10.1.10 hereof. It is acknowledged and agreed, that if a Recognized Lender provides financing on Later Round Sponsorship and Advertising, that the proceeds therefrom will be used for Phase II Equipment, subject to reserve requirements of the Recognized Lender. "Later Round Sponsorship and Advertising" shall refer to any and all Sponsorship and Advertising that are not in place as of the Effective Date. If additional Sponsorship above and beyond what is required for Phase I Equipment is in place as of the Effective Date, or immediately thereafter, then a portion of the resulting additional funding, as mutually agreed to by the Parties and a Recognized Lender providing financing on such additional sponsorship agreements, shall be immediately expended on Phase II Equipment and the remaining balance shall be reserved for additional Phase II Equipment, cash reserved for Operating Deficits and/or any reserve that may be required by the Recognized Lender.

3.8. After the Go Live Date, NYCBS or DOT may request and negotiate with the other party options for the expansion of the Program subject to Section 3.4.

3.9. During the Initial 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 Initial Term of the Agreement, the City proposes to expand the Program as contemplated in Section 3.4 (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 3.9. Furthermore, each Proposed Program shall be subject to the terms and conditions of this Section 3.9. Any expansion beyond Phase II is subject to the prior consent of the Recognized Lender, which consent shall not be unreasonably withheld.

SECTION 4

SITING

4.1. NYCBS shall assist DOT in a community engagement and outreach process, with regard to the siting of Stations, which process will include, but not 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. Upon conclusion of the community engagement and outreach process and pursuant to DOT's siting criteria, NYCBS shall provide a proposed list and map of prospective Station sites to DOT, and such list and map shall be subject to DOT's review and approval.

4.3. 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.

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

4.4.1. 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;

4.4.2. 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;

4.4.3. 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

4.4.4. Any necessary permits, authorizations, approvals, consents, licenses and certifications from Persons to use a building or other private property, easements, poles, and conduits.

4.5. All DOT permit fees shall be waived by DOT.

4.6. 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.

4.7. 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.

4.8. 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.

SECTION 5

SERVICE

5.1. NYCBS shall ensure, subject to Force Majeure Events, that the Program is fully operational at all Stations consistent with service level commitments as set forth in Appendix A, including Satellites, 24 hours per Day, seven Days per week, every Day of each Year, from the Go Live Date through the end of 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. On or before the Go Live Date, NYCBS shall create a cash reserve account in amount not less than $2 million dollars (the "Cash Reserve Account"). Such Cash Reserve Account shall be used to cover Operating Costs of the Program above and beyond the initial purchase of the Equipment and other launch costs. Until the later of December 31, 2013 or 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 the requirements of a Cash Reserve Account provided that such principal reserves are available to cover an Operating Deficit, if any. Each Calculation Period, NYCBS shall deposit Net Operating Revenue, if any, adequate to restore the balance of the Cash Reserve Account to $2 million dollars, the deposit made to restore the Cash Reserve being known as (the "Cash Reserve Deposit Amount").

SECTION 6

CONSTRUCTION AND TECHNICAL REQUIREMENTS

6.1. NYCBS shall construct and install the Equipment in accordance with the Plans and 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, as described in Appendix F, 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 such approval shall not to 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. NYCBS shall provide real-time active tracking technology on ten percent of the Program Fleet not later than one (1) Year from the Go Live Date. Subsequent expansion of real-time active tracking technology for the Program Fleet will be determined by mutual agreement of the Parties.

6.10. In the event 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 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. 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.

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 as set forth therein.

7.2. After the initial installation of 420 Stations, 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 Go Live 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. Within 30 Days after the Go Live Date, 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. Wayfinding Elements shall be provided by DOT to NYCBS.

7.6. 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 a third party 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.

7.7. 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.

7.8. 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.

7.9. Following the Go Live 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.

7.10. NYCBS may shut down the Program for weather-related or other emergencies, in its reasonable discretion.

SECTION 8

ADVERTISING AND SPONSORSHIP

8.1. In consideration of NYCBS's performance of the Services and share of revenue pursuant to Section 11 herein, 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.

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.

8.5. If any material displayed or placed in violation of any of provision of 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 Go Live Date and which may hereafter be adopted, to the extent not grandfathered under the law, with respect to Advertising and Sponsorship.

8.8. 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. 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

8.9.2. Permit one Advertiser or Sponsor.

8.10. 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.

8.11. 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.

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 Station relocations, 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. At the end of each Calculation Period (as defined in Section 10.1.4), NYCBS shall fully reimburse the City for all lost parking meter revenue 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. The amount of parking meter revenue lost with respect to any particular location shall be calculated by multiplying the following:

9.2.1. Then current posted parking meter rate;

9.2.2. Hours of operation of the parking meter;

9.2.3. 306 Days;

9.2.4. The calculation shall be pro-rated, per space, for periods of occupancy of less than one year.

SECTION 10

COMPENSATION AND OTHER PAYMENTS

10.1. Definitions. All of the terms defined in this 10.1, when used in this 10.1 or anywhere else in this Agreement or in its Appendices and Exhibits, shall have the meanings described below in this Section 10:

10.1.1. "Net Operating Revenue" shall mean, with respect to any Calculation Period, the excess if any of Operating Revenue for such Calculation Period over Operating Costs for such Calculation Period (as described in Section 10.1.11 below, if, for any Calculation Period, Operating Costs for such Calculation Period exceed Operating Revenue for such Calculation Period, such excess shall constitute the "Operating Deficit" for such Calculation Period).

10.1.2. "Contract Year" is defined as follows: (i) the first Contract Year shall be the period commencing with the Go Live Date and running through and including December 31 of the calendar year in which the Go Live Date falls, (ii) thereafter each full calendar year falling within the Term shall be a Contract Year, and (iii)

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.

10.1.3. "Pre-Launch Period" shall mean the period from and including March 6, 2012 until and including the day preceding the Go Live Date.

10.1.4. "Calculation Period" is defined as follows: the first Calculation Period shall be the Pre-Launch Period, and thereafter each Contract Year shall be a Calculation Period.

10.1.5. "Operating Costs" is defined as follows:

"Operating Costs" for any Calculation Period shall mean the sum of all of the following Program costs, to the extent attributable to the costs of operating and maintaining the Program, if incurred during such Calculation Period, and any other actual costs of operating and maintaining the Program unless expressly excluded (in this Section 10.1.5 or elsewhere in this Agreement) from Operating Costs:

(a) Costs of the initial purchase of Program Bicycles and Station equipment, and costs of installing the Stations;

(b) Costs of replacing lost, stolen or unusable Program Bicycles and Station Equipment;

(c) Costs of acquiring replacement parts for Program Bicycles and Stations;

(d) Costs of acquiring support items for Program Bicycles and Stations, such as spare parts, keys and batteries, and the real-time active tracking technology equipment contemplated in Section 6.9;

(e) Costs of rent, maintenance, furnishings and utilities for Program facilities ;

(f) Costs of compensating personnel employed on a full-time or a part-time basis in the operation or maintenance of Program activities (including the repair, rebalancing, assembly and maintenance of Bicycles, the repair, maintenance and relocation of Stations, the cleaning and maintenance of Station locations, and the lockdown and reopening of Stations as may be necessary for extreme weather or other emergency conditions); plus the costs of compensating personnel employed on a full-time basis in the management or administration of Program activities, but (as further described in Section below) not personnel whose work on the Program is only part of their job responsibilities;

(g) Costs of subcontract labor and hourly compensation to non-salaried personnel employed on a full-time or a part-time basis in the operation and maintenance of the Program (including the repair, rebalancing, assembly

and maintenance of Bicycles, the repair, maintenance and relocation of Stations, the cleaning and maintenance of Station locations, and the lockdown and reopening of Stations as may be necessary for extreme weather or other emergency conditions) to the extent of the time actually and identifiably spent by such personnel on such operation and maintenance of the Program;

(h) Costs of obtaining the following services to the extent such costs are fully and identifiably attributable to designing, promoting, installing, operating and maintaining the Program: accounting, legal, marketing, community and government relations, and information technology services, including software licensing fees, communication, website, and technical support costs, provided however that all fees, costs and expenses (including, without limitation, legal fees) incurred in connection with preparing and negotiating this Agreement and other Program-related contracts through the Go Live Date will be excluded from Operating Costs;

(i) Costs for insurance covering the Program and Program operations;

(j) Costs of leasing, purchasing, operating, fueling and maintaining vehicles used entirely for Program purposes (such as vehicles used for rebalancing, relocation of Stations, and lockdowns and reopenings in the case of extreme weather conditions or other emergencies);

(k) Costs of operating the call centers described in Section 7.6 (provided that to the extent that such call centers also serve non-Program bike share systems or other non-Program operations, only those costs of operating such call centers which are reasonably allocable to the Program shall be included within Operating Costs and provided that with respect to any call centers located outside New York City such reasonably allocable costs shall be deemed to include only the marginal cost of answering calls related to the Program and shall not include any portion of facility or other fixed costs that would have been incurred regardless of the addition of Program-related calls);

(l) Costs of providing Bicycle use training and Bicycle safety education in the City as part of a cooperative effort with the City in connection with the Program;

(m) Costs of paying any sales taxes due in connection with the purchase of equipment and services for the Program;

(n) Costs to pay fees charged by credit card companies in connection with Operating Revenues received via credit card payments;

(o) Costs to pay debt service (principal and interest, whether a scheduled or a voluntary or mandatory prepayment) on loans the proceeds of which are used entirely for Program purposes, and other bank fees and charges

payable with respect to such loans;

(p) Costs incurred to maintain the Security Fund;

(q) Payments made to the City to reimburse the City for the loss of parking meter revenue resulting from Stations being installed at locations that had previously been occupied by metered parking spaces, as set forth in 0;

(r) With respect to each Contract Year (but not with respect to the Pre-Launch Period), the Management Fee Allocation (as defined in subsection 10.1.13 below) for such Contract Year[1];

(s) Reasonable costs required to launch the Program incurred between March 6, 2012, through the Go-Live Date (which such costs shall be attributed to the first Calculation Period);

(t) Fees to sponsorship placement agent; and

(u) Phase II Reserve deposits, if any, per Section 10.2.

10.1.6. In the preceding list of Operating Costs, no cost is to be included in more than one category, so that a cost included in one category shall therefore be deemed excluded from all other categories, the intention being that no particular cost should be counted twice in calculating total Operating Costs.

10.1.7. In calculating Operating Costs, costs that are shared by both Program activities and non-Program activities shall (unless expressly stated otherwise in this Agreement) be pro-rated, so as to determine costs appropriately attributable to the Program, on a basis that is reasonable and is proposed by NYCBS subject to DOT's approval not to be unreasonably withheld (if DOT has reasonable objections to the proposed basis for pro-rating, the City shall propose adjustments which shall be adopted and become applicable if reasonable).

10.1.8. Notwithstanding anything to the contrary above, "Operating Costs" shall not include any of the following:

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[1] The parties acknowledge that such Management Fee Allocation is intended to reflect, over the term of this Agreement, NYCBS's overhead costs of operating the Program that are not otherwise reflected otherwise in this Agreement, as well as an appropriate fee to NYCBS for its management oversight of the entire Program

(a) Costs reflecting the time and activities of executive, managerial and administrative personnel of NYCBS (and affiliates) who are not dedicated full-time to working on the Program (e.g., NYCBS executives and officers whose responsibilities include, in addition to management, administration and/or oversight of the Program, management, administration and/or oversight of bike share programs in other locations and/or other company programs and activities)[2];

(b) The payment of any liquidated damages due pursuant to this Agreement, and any other costs arising from any default by NYCBS in its obligations under this Agreement;

(c) In the case of any cost that is incurred in a transaction that is not an Arm's-Length Transaction, costs that would exceed the price of the product or service purchased if it had been purchased in an Arm's Length Transaction; and

(d) Depreciation on any Equipment, the purchase cost of which has been fully included in Operating Costs.

10.1.9. "Arm's Length Transaction" shall mean a transaction in which the parties to the transaction do not share any common ownership and are not engaged in other relationships or transactions in addition to Project activities.

10.1.10. "Operating Revenue" for any Calculation Period shall mean the sum of all revenues received, except for sales and use taxes and except for uncollectible revenue (e.g., bad credit receipts or other bad debt), derived from or attributable to the operation of the Program during such Calculation Period, including, but not limited to, the following revenues:

(a) Program membership payments (including annual, weekly and daily membership payments);

(b) Payments for use of Program Bicycles extending beyond the initial period during which no fee is required other than the membership fee;

(c) Any other payments made by Program users or members in connection

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[2] The exclusion of the costs described in this subsection from Operating Costs reflects the binding agreement of the parties that such costs are adequately reflected as Operating Costs within the allocation contemplated in Section 10.1.5(r) above.

with the Program (e.g., amounts paid with respect to lost, stolen or otherwise unreturned Bicycles, and amounts paid with respect to damaged Bicycles or other lost or damaged Equipment and Stations);

(d) Revenue generated by NYCBS or other entities from the sale or rental of anything at Stations or to Program participants (e.g., members and riders) or through Program contact resources (e.g., a Program website), including any and all equipment, products or materials related to the Program (e.g., helmets, gloves, seat pads, baskets, maps, guides, T-shirts, insurance and memorabilia);

(e) Proceeds of loans secured by Program-related assets, rights and/or revenues (or prospective revenues), including without limitation actual or prospective revenue received in connection with Program Advertising and/or Sponsorships (provided that loan proceeds that are in excess of amounts needed for the purchase of Bicycles and the purchase and installation of Stations prior to the Go Live Date and which proceeds are reserved, either as required by this Agreement or with the written consent of the City, solely for use to support Program operations after the Go Live Date shall be treated as Operating Revenue only upon the earlier of when such proceeds are actually used for such operations or if and when such proceeds are no longer thus reserved);

(f) Proceeds of all Program Advertising and Sponsorships, including without limitation proceeds from the award of naming rights and Sponsorship and Advertising revenue and similar forms of revenue that are generated in connection with (x) naming rights related to the Program, (y) Advertising placements on Program Bicycles, Stations, Equipment, website or other physical or web-based materials, and (z) other rights or opportunities related to association with the Program, provided however that proceeds of Program Advertising and Sponsorships that are placed in the Phase II Sponsorship Account (as described in Section 3.7) shall not be included as Operating Revenue unless and until such proceeds are removed from the Phase II Sponsorship Account;

(g) Interest earned on the Cash Reserve Account; and

(h) Disbursements from the Phase II Reserve Account.

10.1.11. "Operating Deficit" for each Calculation Period shall mean the excess, if any, of: Operating Costs for such Calculation Period over Operating Revenue for such Calculation Period. If, for any Calculation Period, Operating Revenue for such Calculation Period equals or exceeds Operating Costs for such Calculation Period, then the Operating Deficit for such Calculation Period shall be deemed to equal zero, and the excess shall be deemed Net Operating Revenue.

10.1.12. "Accumulated Operating Deficit", for any Calculation Period, shall mean the

excess, if any, of (i) the sum of all Operating Costs for all preceding Calculation Periods over (ii) the sum of all Operating Revenue for all preceding Calculation Periods.

10.1.13. "Management Fee Allocation" shall be calculated as follows:

(a) With respect to each Contract Year, 10% of those Operating Costs arising from clauses (b) through (n) of Section 10.1.5 incurred in such Contract Year; and

(b) With respect to each Contract Year ending on December 31, 2012 ("Contract Year 1") and December 31, 2013 ("Contract Year 2"), NYCBS shall pay 35% of the Management Fee Allocation into an escrow account which shall be distributed to NYCBS upon the earlier of:

(i) The date on which both the Program has operated for 15 months and the result of dividing (a) Program to date Net Operating Revenue plus the absolute value Program to date debt service payments by (b) the total of Program to date debt service payments referred to in Section 10.1.5 equals at least 1.6; or

(ii) The fifth anniversary of the Go Live Date has occurred, this Agreement was not terminated prior to such anniversary, and there were no outstanding material defaults by NYCBS of its obligations under this Agreement as of such anniversary.

(c) If the fifth anniversary of the Go Live Date occurs and neither conditions (i) or (ii) above have occurred such that NYCBS has received or is entitled to receive distribution of the funds from such escrow, then the funds in the escrow will be paid to the City. The parties shall enter into an escrow agreement with an escrow agent reasonable acceptable to both parties pursuant to which the escrow agent agrees to pay the escrow funds to NYCBS upon written certification signed by DOT and NYCBS that amounts have become payable to NYCBS pursuant to clauses (i) or (ii) above, or if no such certification has been received by a date which is three months after the fifth anniversary of the Go Live Date then the escrow agent shall pay the escrow funds to the City.

(d) The requirements of this Section 10.1.13 (b) and (c) can be satisfied by a holdback of the Management Fee Allocation by a Recognized Lender in substantial compliance with the terms above (except that the outside date for payout may be adjusted per the term of the Recognized Loan), in which case the Management Fee may serve as additional collateral for a Recognized Loan.

10.2. If and to the extent that, with respect to any Calculation Year, Net Operating Revenue exceeds the sum of any Accumulated Operating Deficit plus any Cash Reserve Deposit Amount,

then to the extent that Phase II of the Program (as described in this Section) has neither been completed nor funds sufficient for such completion set aside in preceding Calculation Years pursuant to this Section 10.1.13(b), NYCBS shall deposit an amount (the "Phase II Set Aside") described in the following sentence into an account (the "Phase II Reserve Account") reserved for spending on purchase of Bicycles for, and/or purchase and installation of Equipment for, such Phase II only. The Phase II Set Aside for a Calculation Year shall be calculated such that the Net Operating Revenue after deducting Accumulated Operating Deficit, if any, for such Calculation Year is equal to 50% of the Net Operating Revenue (after deducting Accumulated Operating Deficit, if any) that would be calculated if the Phase II Set Aside for such Calculation Year was zero, up to a maximum amount which is the amount necessary to bring the Phase II Reserve Account (when added to the balance in the Phase II Sponsorship Account described in Section 3.7) to a funding level reasonably expected to be sufficient to fully fund completion of Phase II. If Phase II is completed and amounts remain in the Phase II Reserve Account, or the Term ends prior to the completion of Phase II, NYCBS shall pay the City 50% of the remaining amounts in the Phase II Reserve Account and may use the other 50% of such remaining amount in its discretion.

10.3. Within ninety (90) Days after the end of each Calculation Period (except the final Calculation Period, payment with respect to which is described in the following Section), NYCBS shall pay to the City 50% of the excess, if any, of Net Operating Revenue for such Calculation Period over the sum of (w) the Accumulated Operating Deficit, if any, for such Calculation Period, plus (x) the Initial Investment Account Deduction, if any, for such Calculation Period, plus (y) the Cash Reserve Deposit Amount, if any, for such Calculation Period, plus (z) the Phase II Set side, if any. Such payment to the City will be in addition to and not in lieu of the amount of any Liquidated Damages assessed against NYCBS consistent with the provisions of this Agreement, including Appendix A. The "Initial Investment Account Deduction" (which is intended to reflect, at an agreed-upon level, certain initial investments in the Program by NYCBS not otherwise accounted for in this Agreement) for any Calculation Year shall equal the excess if any of $225,000 (Two Hundred Twenty Five Thousand Dollars) over the aggregate amount by which Initial Investment Account Deductions have in previous Calculation Years reduced the amount subject to a 50% payment to the City pursuant to this Section 10.3.

10.4. Within ninety (90) Days after the end of the final Calculation Period, NYCBS shall pay to the City 50% of (i) the excess, if any, of Net Operating Revenue for such Calculation Period plus all funds in the Cash Reserve Account, over the sum of (x) the Accumulated Operating Deficit, if any, for such Calculation Period, plus (y) the Initial Investment Account Deduction, if any, for such Calculation Period. Such payment to the City will be in addition to and not in lieu of any Liquidated Damages assessed against NYCBS consistent with the provisions of this Agreement including Appendix A. Notwithstanding anything to the contrary above, Cash Reserve Account funds can only be paid out if the Recognized Loan has been fully repaid and there are still amounts in reserve after such repayment.

10.5. In the event that any payment due pursuant to Sections 10.3 and 10.4 are not received by the City as required within ninety (90) Days following the end of the applicable Calculation Period, NYCBS shall pay interest on such overdue amount at the then-current interest rate set forth in Section 5004 of the New York Civil Practice Law and Rules (which, as of the Effective

Date, is nine percent (9%) per annum) 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.

10.6. No acceptance of any payment due pursuant to Sections 10.3 and 10.4 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.

10.7. Along with each annual payment due pursuant to Sections 10.3 and 10.4, NYCBS shall submit to DOT a report in a form reasonably acceptable to DOT, showing with reasonably comprehensive detail the basis for and components of the computation of such payment. NYCBS shall also submit a comparable report, if no such payment is due with respect to any particular Calculation Period, with such report to be submitted within ninety (90) Days following the end of the applicable Calculation Period and to include information comparable to that which would have been submitted with a payment showing with reasonably comprehensive detail the basis for and components of the computation which produced NYCBS's finding that no payment is due for the applicable Calculation Period.

SECTION 11

PRICE SCHEDULES.

11.1. NYCBS agrees that fees charged for Program Bicycle memberships and usage shall be consistent with this Section; provided, however, that such fees can be changed by mutual agreement of the Parties. 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 Bicycle 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, in accordance with the schedule set forth 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 one Bicycle at a time, for an unlimited number of times, 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, a daily member may, within the member's membership period, check out a Bicycle and return it within the first 30 minutes after checkout, and then subsequently check out a Bicycle and return that Bicycle with the first 30 minutes after that checkout, without incurring any usage fee for either checkout period).

11.2. Unless otherwise approved by the Parties, or as set forth in Section 11.12, NYCBS shall charge the following membership fees during the Term (as calculated on a pre-tax basis):

Annual Membership: $95;

7-Day Membership: $25; and

24-Hour Membership:$9.95.

The period of an annual membership shall run from the minute the annual membership is

purchased until the same minute on the first anniversary of the date on which the annual membership had been purchased (but a membership purchased on February 29 shall expire on March 1 of the following Year). The period of a 7-Day membership shall run from the minute the 7-Day membership is purchased until the same minute the following week on the same Day of the week on which the 7-Day membership had been purchased (for example, a 7-Day membership purchased at 10:22AM on a Thursday shall expire at 10:22AM on the next immediately following Thursday). The period of a 24-hour membership shall run from the minute the 24-hour membership is purchased until the same minute on the next Day (for example, a 24-hour membership purchased at 10:22AM on a Thursday shall expire at 10:22AM on Friday, the next Day).

11.3. Unless otherwise approved by the Parties, NYCBS shall charge the following usage fees during the Term (as calculated on a pre-tax basis):

For Annual members:

First 45.00 minutes:	Free
45.01-75.00 minutes:	$2.50
75.01-100.00 minutes:	Additional $6.50 Total $9.00
100.01-130.00 minutes:	Additional $9.00 Total $18.00
Additional 30 minute increments:	$9.00

For short-term subscriptions (7-Day and 24 hours)

First 30.00 minutes:	Free
30.01-60.00 minutes:	$4.00
60.01-90.00 minutes:	Additional $9.00 (Total $13.00)
90.01-120.00 minutes:	Additional $12.00 (Total $25.00)
Additional 30 minute increments:	additional $12.00

In the above schedule, each notation of "XX.XX minutes" refers to the number of minutes (the two-digit number before the period) and seconds (the two-digit number after the period) during which a Bicycle is checked out.

11.4. For the additional "affordability" subscription, NYCBS shall charge the following membership fees during the Term (as calculated on a pre-tax basis):

Annual Membership: $60.

11.4.1. NYCBS shall provide the option for affordability membership clients to pay in quarterly installments.

11.4.2. Affordability members are qualified applicants in a program to be established by DOT, other City agencies and other institutional partners, provided that the criteria for the affordability membership shall be set by DOT.

11.4.3. DOT shall determine the process for determining who qualifies for an affordability membership.

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

11.4.5. Members enrolling through the affordability program shall be entitled to the same rights, privileges as all other annual membership holders.

11.4.6. The useage fees for affordability members shall not exceed the rate charged to general annual members.

11.4.7. NYCBS shall work with the affordability partners to create a mechanism for charging useage fees.

11.5. After a member has inserted a credit card or other form of member identification or payment at a Station, the member shall have a period of five minutes within which to check out a Bicycle from a Dock at the Station. After the expiration of such five-minute period, a new insertion of identification or payment shall be required. In any event, however, 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.

11.6. The maximum Bicycle usage charge with respect to any member shall be $100 per 24 hour period, not including charges for damaged, lost, stolen or otherwise unreturned Bicycles.

11.7. Fees for damaged, lost, stolen or otherwise unreturned Bicycles 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.

11.8. NYCBS shall at all times post on all Stations and on NYCBS's 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.

11.9. 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.

11.10. 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.

11.11. 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.

11.12. At any time during the initial term, and without the need to obtain the approval of the DOT, NYCBS shall have the right to adjust the pricing schedules referred to above: (i) upwards in an amount reasonably necessary to cover increased operating expenses (such operating expenses being certified by a certified public accountant); and (ii) downwards.

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, and, all revenue generated by such activities shall be deemed Operating Revenue.

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") necessary to operate and promote 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 of this Agreement 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 our 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 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's 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's 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 NYCDOT. 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 system 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 NYCDOT; 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.

15.4. NYCBS shall provide reports to NYCDOT, as set forth in Appendix G.

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; and

16.1.12. Call center contact information.

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

SECTION 17

SECURITY FUND

17.1. NYCBS shall, no later than sixty (60) days from the Effective Date, deposit with DOT a security deposit ("Security Fund") in the amount of $500,000.00, which may consist of a certified check, bank check or wire transfer payable to the "City of New York," or other cash equivalent that may be acceptable to DOT. 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; and, all such expenses shall be deemed Operating Costs.

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's 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's 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 10.1 hereof and liquidated damages.

17.6. In accordance with Section 17.5 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's 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's 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's 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 rate specified in Section 10.5, 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 the rate specified in Section 10.5 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 17.6.

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

18.5. NYCBS shall report to the General Counsel at DOT, 55 Water Street, 9th Floor, New York, NY 10041 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.

18.6. 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 award of this Agreement. 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's 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 19.8, 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's 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's 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:

20.1.1. Upon a breach by NYCBS of a material term or condition of this Agreement;

20.1.2. Upon an event of default, for which an opportunity to cure such default was given, by NYCBS of a material term or condition of a Sponsorship agreement;

20.1.3. Upon an event of default, for which an opportunity to cure such default was given, by NYCBS of a material term or condition of a Program financing agreement;

20.1.4. Upon an event of default, for which an opportunity to cure such default was given, by NYCBS of a material term or condition of its agreement with Public Bike System Company;

20.1.5. Upon the commencement of any proceeding by or against NYCBS, either voluntarily or involuntarily, under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of NYCBS for the benefit of creditors;

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 are indicted or convicted after execution of the Agreement under any state or federal law of any of 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;

20.1.7. 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

20.1.8. 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.

20.2. 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 twenty (20) Days from its receipt of the Notice to Cure a violation of Section 3.2. If such a default is unable to be fully cured within ten (10) Days, NYCBS shall not be in violation of this Section if NYCBS commence such cure within the initial ten (10) Day period and continues to diligently pursue cure of the default. 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 set forth in the Notice to Cure, 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 terminate the Agreement, in whole or in part, upon finding NYCBS in default pursuant to this Section, in accordance with the provisions of Section 20.1, and all licenses granted by NYCBS shall thereupon terminate.

20.2.3. The Commissioner, after declaring NYCBS 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", but without using any of NYCBS's 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 6 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, sell or assign the Agreement and/or Equipment subject to the rights of the Recognized Lenders; or

(e) Pursue any other remedy permitted by law or in equity or in this Agreement.

20.3. "Event of Force Majeure" means 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 a Force Majeure Event, then NYCBS may ask the Commissioner to excuse the nonperformance 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 a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may 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's default under this Agreement.

20.6. DOT and the City shall give NYCBS written notice of any termination of this Agreement for cause. This Agreement shall not be terminated by DOT and the City without cause 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, 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 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 made 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 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; or

20.8.2. Require NYCBS to assign the Equipment to a third party operator, subject to the rights of any lender providing financing to the Program.

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. Upon expiration of this Agreement, NYCBS shall remove all Equipment.

20.11. 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 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.

21.2. 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.

21.3. 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.

21.4. 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's 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's 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 10.7.

22.5. In the event the City has a good faith reason to believe that NYCBS's 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's 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's 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's obligations under this Agreement. All such documents shall be made available at NYCBS's 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 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 Go Live Date, the City shall designate a DOT employee and NYCBS shall designate an employee as required by Section 21.4, 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's 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, 711 SE Grand Avenue, Portland, Oregon 97214; with a copy to

Jerome F. Elliott, at Elliott, Ostrander & Preston, P.C., Union Bank Tower, 707 SW Washington Street, Suite 1500, Portland, Oregon 97205.

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 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 owner of NYCBS is Alta; 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's 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.

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.

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 17.

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 a Force Majeure Event, 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.

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 Effective Date.

THE NEW YORK CITY
DEPARTMENT OF TRANSPORTATION

By: _____
Janette Sadik-Khan
Commissioner

NYC BICYCLE SHARE, LLC

By: _____
Alison Cohen
Manager

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

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

Janette Sadik-Khan, Commissioner of The New York City Department of Transportation, party to the above instrument, personally appeared before me in said State on the 10th day of April, 2012, the said Janette Sadik-Khan 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 10th day of April, 2012.

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

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

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

Alison Cohen, Manager of NYCBS Bike Share, LLC, party to the above instrument, personally appeared before me in said State on the 10th day of April, 2012, the said Alison Cohen proved to me on the basis of satisfactory evidence 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 Manager of NYCBS Bike Share, LLC.

Given under my hand and seal, this 10th day of April, 2012.

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