

**AGREEMENT TO PROVIDE TAXICABS IN SUPPORT OF ACCEPTANCE TESTS**

This **AGREEMENT** to Provide Taxicabs in Support of Acceptance Tests (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between \_\_\_\_\_ [Contractor’s or Contractor Agent’s Name] (“Contractor” or “Contractor Agent”), a \_\_\_\_\_ corporation [New York or other state, \_\_\_\_\_ country], with \_\_\_\_\_ offices at \_\_\_\_\_ [Address of Contractor or Contractor Agent] and \_\_\_\_\_ [Name of Taxicab Owner or Medallion Agent] (“Owner” or “Medallion Agent”) with offices at \_\_\_\_\_ [Address of Taxicab Owner or Medallion Agent].

**WHEREAS**, Section 4.4.1.3 of the Medallion Taxicab Technology Enhancements Service Agreement (“TLC-Contractor Agreement”) signed on \_\_\_\_\_ by Contractor and the City of New York through the New York City Taxi and Limousine Commission (“TLC”), permits the Contractor to offer (in writing) Owners or Medallion Agents additional discounts on the Owner Base Services (as defined in the TLC-Contractor Agreement) as an incentive for Owners or Medallion Agents to provide taxicabs in support of the 50-cab Acceptance Tests (“Acceptance Tests”) required by the TLC-Contractor Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. In exchange for Owner’s or Medallion Agent’s permission to have Contractor’s Taxicab System installed and tested for not less than forty-five (45) days in \_\_\_\_\_ number of Taxicabs owned by Owner or managed by Medallion Agent in support of the Acceptance Tests, Contractor or Contractor Agent hereby agrees to provide to the Owner or Medallion Agent the following additional discount(s) on the purchase of Owner Base Services (as defined in the TLC-Contractor Agreement) to be applied when Owner or Medallion Agent is permitted to purchase the Contractor’s Taxicab System and Services pursuant to the schedule established under the TLC-Contractor Agreement:

Discount(s) shall be as follows:

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2. This Agreement shall commence upon execution by the parties and shall continue until the Owner or Medallion Agent purchases Contractor's Taxicab System and Services with the benefit of the discounts set forth above. However, nothing in this Agreement shall obligate Owner or Medallion Agent to commit to purchase any services or products from the Contractor or Contractor Agent or to deal exclusively with Contractor or Contractor Agent.

3. During the period of the Acceptance Tests, Contractor or Contractor Agent shall be responsible for maintaining the Taxicab Systems installed in Owner's or Medallion Agent's Taxicabs.

4. Contractor or Contractor Agent shall conduct at least one training session on the proper operation and use of the Taxicab System.

5. During the period of the Acceptance Tests, all costs associated with processing credit/debit card transactions, including but not limited to, card association fees, mark-ups, transaction fees, processing fees, and chargeback fees (collectively "credit/debit card fees"), shall be the responsibility of the Contractor or Contractor Agent, and no credit/debit card fees shall be charged to the Owner, Medallion Agent, Owner Agent or Driver. Following completion of the Acceptance Tests, credit/debit card fees shall also be the responsibility of the Contractor or Contractor Agent, provided that such credit/debit card fees relate to a customer transaction occurring during the period of the Acceptance Tests and the Owner, Medallion Agent, Owner Agent or Driver followed the proper procedures for such credit/debit card transaction.

6. Contractor or Contractor Agent agrees to hold harmless, indemnify and defend, at its own cost and expense, Owner, Medallion Agent, any Owner Affiliate and Owner Agent (each an "Owner Party" and collectively "Owner Parties") against any and all Losses and threatened Losses arising from or in connection with any third-party claims or actions alleging infringement of any third party's Intellectual Property Rights attributable to the provision by Contractor or Contractor Agent or use by any Owner Party or Passenger of any Service, Taxicab System, or System Component. Contractor or Contractor Agent shall have no obligation to indemnify or defend any Owner Party to the extent that the infringement is attributable to Owner Party's or any Driver's (a) unauthorized modification of the applicable Service, Taxicab System, or System Component or (b) misuse of the applicable Service, Taxicab System, or System Component.

The Contractor or Contractor Agent and Owner (each a “party”) agree to hold harmless, indemnify and defend the other party, from any and all Losses and threatened Losses arising from or in connection with third-party claims attributable to any of the following: (1) The death or bodily injury of any agent, employee, business invitee, or business visitor or other person proximately caused by the tortious or willful conduct of the indemnifying party; or (2) The damage, loss or destruction of any real or tangible personal property proximately caused by the tortious or willful conduct of the indemnifying party.

7. Any party seeking indemnification under this Agreement shall provide prompt written notice of a claim or action subject to the indemnifying party’s obligations, copies of all papers served on the indemnified party relating to the claim or action, and reasonable assistance to the indemnifying party, at the indemnifying party’s expense, in the defense and settlement of the claim or action. An indemnifying party shall not be relieved of its obligations under this Agreement where the indemnified party fails to comply with this Paragraph 7 except to the extent that the indemnifying party’s ability to defend or settle a claim or action is materially prejudiced.

The indemnifying party shall have the sole right to conduct the defense of any claim or action for which it promptly assumes its defense obligations and all negotiations for its settlement or compromise, unless otherwise mutually agreed to in writing by the parties hereto. If the indemnifying party does not promptly assume its defense or settlement negotiation obligations after being informed of a claim or action, the indemnified party may take such actions as it deems appropriate to defend or settle the claim or action, and the indemnifying party shall indemnify the indemnified party for any costs associated with such defense or settlement, as well as the amount of any judgment asserted against the indemnified party or settlement amount paid by the indemnified party.

All indemnification obligations arising under this Agreement shall survive the expiration or earlier termination of this Agreement.

8. For System Components provided by Contractor or Contractor Agent and installed in any Taxicab pursuant to this Agreement, Contractor or Contractor Agent shall be responsible for all risks of loss or damage to such System Components, except loss or damage caused by Owner, Medallion Agent, or Owner’s Agent.

9. Contractor and/or Contractor Agent hereby grants to Owner, Medallion Agent and Drivers of the Taxicab in which the Taxicab System is installed a worldwide, royalty-free, non-transferable, non-exclusive right to Access and use the Software and other Contractor and/or Contractor Agent Intellectual Property for their intended purpose for the duration of the Acceptance Tests. Owner and Medallion Agent acknowledge that, based on the representation of Contractor and/or Contractor Agent, any source code for the Software and other Intellectual Property of Contractor and/or Contractor Agent (collectively, “Contractor Proprietary Property”) is proprietary and confidential

to Contractor and/or Contractor Agent, as the case may be. Owner and Medallion Agent agree to treat any Contractor Proprietary Property provided to Owner and Medallion Agent as Contractor Confidential Information.

10. Neither party may assign this Agreement, or any rights or obligations hereunder, by operation of law or otherwise, without the prior written consent of the other party, and any such attempted assignment shall be void.

11. The laws of the State of New York shall govern the validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties hereunder.

12. Except as otherwise provided herein, the capitalized terms in this Agreement shall have the meaning given such terms in Attachment OCF (Exhibit GL) of the TLC-Contractor Agreement.

13. This Agreement may be executed in several counterparts, all of which taken together shall constitute one single agreement between the parties hereto.

**IN WITNESS WHEREOF**, the parties hereto, each acting by their authorized representatives, have executed this Agreement as of the date first above written.

**OWNER (OR MEDALLION AGENT)**

**Name:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**CONTRACTOR (OR CONTRACTOR AGENT)**

**Name:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_