

**AN AGREEMENT BETWEEN
THE CITY OF NORTH MIAMI AND
NEUTRON HOLDINGS, INC.**

THIS AGREEMENT ("Agreement") is made effective as of the 11th day of January, 2018 (the "Effective Date"), by and between the **City of North Miami**, a Florida municipal corporation, having its principal address at 776 NE 125 Street, North Miami, Florida 33161 ("City"), and **Neutron Holdings, Inc., DBA LimeBike**. ("LimeBike"), a foreign profit corporation, having its principal address at 2121 S El Camino Real, B-100 San Mateo, California 94403.

RECITALS

WHEREAS, the City's goal is to provide safe and affordable multi-modal transportation options to all residents, reduce traffic congestion, and maximize carbon free mobility.

WHEREAS, bike share programs and related services are a component to help the City achieve its transportation goal and the City desires to make bike share and related mobility services available to residents and employees.

WHEREAS, LimeBike is a qualified provider of bike share and related mobility products and services and proposes to operate a bike share program within the City.

WHEREAS, LimeBike requests the use of City property to efficiently and effectively provide bike share services.

WHEREAS, the use of City property for bike share and related services is a benefit to City residents and businesses.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the Parties agree as follows:

1. **Non-Exclusivity**. City authorizes and licenses, on a non-exclusive basis, LimeBike to use City property solely for the purposes set forth in Sections 2 and 3 of this Agreement. This license is not a lease or an easement, is revocable, and is not intended and shall not be construed to transfer any real property interest in City property. No part of this Agreement shall be read to confer an exclusive partnership between City and LimeBike.
2. **Use of City Property**. City authorizes LimeBike to use City property solely for the purpose of parking a) bicycles and/or b) related mobility products and services including, for instance, electric assist model bicycles ("e-assist") or electric scooters for bike share program described in Exhibit "A." For the purposes of this Agreement, "bicycles" and/or "bikes" include electric assist, "e-assist" models, and scooters. Similarly, "bike share" and "bike sharing" refers to operating traditional bicycles or other bike models such as e-assist and related mobility products such as scooters.

Within 30 days of the signing of this Agreement, or prior to the deployment of bikes, whichever comes first, the parties will mutually agree on and develop a map of public areas where rebalanced bikes will be concentrated for bike parking. Bikes utilized by the public shall be parked by users legally in public areas and bikes may not be parked on private property without prior written authorization from the property owner. Authorized designated bike parking on private property locations will also be added to the parking map. This map and location site list may be modified from time to time by mutual agreement of parties.

3. Permitted Use. LimeBike may use City property solely for parking of bicycles owned and maintained by LimeBike for use in the bike share program. LimeBike shall not place or attach any personal property, fixtures, or structures to City property without the prior written consent of City.
 - a. Use of City property, and LimeBike's operations within the City, shall, at a minimum: a) not adversely affect City property or the City's streets, or sidewalks; b) not adversely affect the property of any third parties; c) not inhibit pedestrian movement within City property or along other property or rights-of-way owned or controlled by the City) not create conditions which are a threat to public safety and security.
 - b. Upon termination of this Agreement by either party, LimeBike shall, at its sole cost and expense, immediately restore City property to a condition which is visually and structurally indistinguishable from the immediately surrounding area.
4. Bike Parking. The City, at its own discretion, may support the bike sharing program with the installation of bike racks and/or painted bike parking spots, and recommended bike parking spots without racks or painting, in the City sufficient to facilitate the orderly parking of bikes throughout the City.
5. Condition of City Property
 - a. City makes City property available to LimeBike in an "as is" condition. City makes no representations or warranties concerning the condition of City property or its suitability for use by LimeBike or its customers, and assumes no duty to warn either LimeBike or its customers concerning conditions that exist now or may arise in the future.
 - b. In making City property available for use by LimeBike, City assumes no liability for loss or damage to LimeBike's bikes or other property. LimeBike agrees that City is not responsible for providing security at any location where LimeBike's bikes are stored or located, and LimeBike hereby waives any claim against City in the event LimeBike's bikes or other property are lost or damaged.
6. Maintenance and Care of Portion of City Property; LimeBike shall be solely responsible for: (i) maintaining City property to the City standards applicable for use by LimeBike as

permitted under Sections 3 and 4; and (ii) obtaining from the City any applicable permits required by the City. LimeBike shall exercise due care in the use of City property and shall be responsible for maintaining City property in good condition and repair. LimeBike shall not act, or fail to act, in any way that result in excessive wear or damage to City property. LimeBike expressly agrees to repair, replace or otherwise restore any part or item of real or personal property that is damaged, lost or destroyed as a result of the LimeBike's use of City property. Should the LimeBike fail to repair, replace or otherwise restore such real or personal property, LimeBike expressly agrees to pay City's costs in making such repairs, replacements or restorations.

7. Operations & Maintenance.

- a. LimeBike will be responsible for all operations and bike rebalancing. Once fully deployed and operational, in accordance to Exhibit "A", regularly report on our operations.
- b. LimeBike will cover all maintenance costs for the bike fleet and maintenance to minimum level of service. LimeBike shall comply with the Service Level standards as indicated in Exhibit "A".

8. Indemnification. LimeBike shall indemnify and hold harmless the City, its officers, agents, representatives, and employees, from and against any and all demands, claims, expenses, fines, fees, taxes, assessments penalties, reasonable costs, losses, suits, liabilities, causes of action, judgment or damages, arising from LimeBike's performance or non-performance of any provision of this Agreement, or related to the City's negligent exercise or of its responsibilities as set out in this Agreement, including, but not limited to, any negligent act, negligent action, negligence or omission by the CITY, its officers, agents, employees or representatives in the performance of this Agreement, whether direct or indirect, and liabilities arising from contracts between the LimeBike and third parties made pursuant to this Agreement, except that neither the CITY nor any of its officers, agents, employees or representatives will be liable under this provision for damages arising out of injury or damages caused or resulting from negligence of LimeBike. LimeBike shall reimburse the City for all its expenses including reasonable attorneys' fees, including regulatory and appellate fees, and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from LimeBike's performance or non-performance of this Agreement. The provisions of this section shall survive termination of this Agreement.

9. Insurance. LimeBike shall secure and maintain throughout the duration of this Agreement insurance of such types and in such amounts not less than those specified below as satisfactory to City, naming the City as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the City, its officers, employees, agents and volunteers naming the City as additional insured. Any insurance maintained by the City shall be in excess of LimeBike's insurance and shall not contribute to the LimeBike's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the City as it deems necessary or prudent.

Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Consultant. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.

Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the LimeBike shall be allowed to provide services pursuant to this Agreement who is not covered by Worker's Compensation insurance.

Business Automobile Liability with minimum limits of \$1,000,000 per Occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.

Certificate of Insurance. Certificates of Insurance shall be provided to the City, reflecting the City as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by City and prior to commencing Services on any Project. Each certificate shall include no less than (30) thirty-day advance written notice to City prior to cancellation, termination, or material alteration of said policies or insurance. The LimeBike shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the City. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The City reserves the right to inspect and return a certified copy of such policies, upon written request by the City. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the City.

Additional Insured. Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the City is to be specifically included as an Additional Insured for the liability of the City resulting from Services performed by or on behalf of the LimeBike in performance of this Agreement. The LimeBike's insurance, including that applicable to the City as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the City shall be in excess of and shall not contribute to the LimeBike's insurance. The LimeBike's insurance shall contain a

severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

Deductibles. All deductibles or self-insured retentions must be declared to and be reasonably approved by the City. The LimeBike shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

The provisions of this section shall survive termination of this Agreement.

10. Compliance with Law. LimeBike at its own cost and expense, shall comply with all statutes, ordinances, regulations, and requirements of all governmental entities applicable to its use of City property and the operation of its bike share program, including but not limited to laws governing operation of bicycles. City shall reasonably cooperate with LimeBike, at no additional cost to City, such that LimeBike can properly comply with this Section and be allowed to use City property as specified in Sections 2 and 3.
11. Required Reports. LimeBike shall provide reports to the City concerning utilization of its bikes and bike route usage not less than quarterly, and shall cooperate with the City in the collection and analysis of aggregated data concerning its operations.
12. No Joint Venture. Nothing herein contained shall be in any way construed as expressing or implying that the parties hereto have joined together in any joint venture or liability company or in any manner have agreed to or are contemplating the sharing of profits and losses among themselves in relation to any matter relating to this Agreement.
13. Term. This Agreement shall commence on the Effective Date and shall expire on the date that is 180 days after the Effective Date, unless earlier terminated pursuant to Section 14. By mutual written consent, this Agreement may be extended up to two (2) years.
14. Termination. This Agreement may be terminated prior to the expiration date set forth in Section 13, upon the occurrence of the following condition:
 - a. Upon delivery of written notice from City to the LimeBike terminating this Agreement for any reason, or for no reason, by giving at least thirty (30) days' notice to the LimeBike of such termination.
 - b. An attempt to transfer or assign this Agreement.
15. Amendment. This Agreement may be amended by mutual written agreement of the parties.
16. Applicable Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any litigation arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

17. Counterparts. This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.
18. Reporting: In addition to the general reporting requirements outlined in Exhibit "A", not later than one hundred and twenty (120) days following the Effective Date, LimeBike shall furnish the City Manager and City staff with a report that includes, but is not limited to, total number of program riders, number of rides, average rides per bike per day, number of bikes non-operational over the Term, and total Customer Support call and responsiveness metrics.
19. Attorney Fees and Waiver of Jury Trial. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels. In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.
20. Nondiscrimination. During the term of this Agreement, LimeBike shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal, State, and City laws regarding nondiscrimination.
21. Notice. Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City: City of North Miami
 Attention: City Manager
 776 NE 125 Street
 North Miami, Florida 33161

With a copy to: City of North Miami
 Attention: City Attorney
 776 NE 125 Street
 North Miami, Florida 33161

For LimeBike: Neutron Holdings, Inc, DBA LimeBike
 2121 S El Camino Real, B-100
 San Mateo, CA 94403

With a copy to: NRAI Services Inc.
 1200 S. Pine Island Rd
 Plantation, FL 33321

22. Public Records. LimeBike agrees to keep and maintain public records in LimeBike's possession or control in connection with LimeBike's performance under this Agreement. LimeBike additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. LimeBike shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the City. Upon request from the City's custodian of public records, LimeBike shall provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

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IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written below their signatures.

ATTEST:
Corporate Secretary or Witness:

Neutron Holdings, Inc., DBA LimeBike
a foreign limited liability company.

By: _____

By:  _____

Print Name: _____

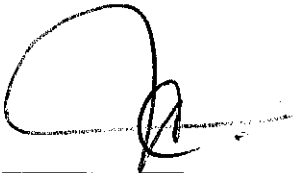
Print Name: Timothy Boyle


Date: _____

Date: 1-11-18

ATTEST:

City of North Miami, a Florida municipal corporation: "City"

By:  _____
Michael A. Etienne, Esq.
City Clerk

By:  _____
Larry Spring Jr.
City Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


 _____
Jeff H. Cazeau, Esq.
City Attorney

Exhibit A

Description of LimeBike's Service Level Agreement

We have built the operations standards below with performance indicators that best represents our model of bike sharing. We will report on these metrics that help the City measure the success in serving its citizens and improving the livability/mobility of North Miami. We will maintain our bikes to be in an excellent state of cleanliness and repair, with a minimum of 90% of deployed bikes operable at any time.

Performance Indicator	Description	Measurement Tool	Minimum Performance Standard	Reporting Frequency
App & customer service support portal	LimeBike reservation system fully operational	Uptime reporting	99.5% uptime.	quarterly
Bicycle distribution	Maps identifying trends in peak bike distribution	Maps showing aggregate usage patterns	Fleet will focus on serving the island of North Miami	quarterly
Bicycles in service	# of bikes in service	Daily uptime reports	Deploy and maintain a target of 625 bicycles in service in any calendar month. Bicycles will be phased into deployment based on usage and demand.	quarterly
Report-responsive	LimeBike response time to resolve call to Customer Service. Following Pilot, report time of improper bike parking / other problems communicated to City staff	Time relative to report logs	Within two (2) hours during business hours between 8am to 8pm Monday through Friday except for State and Federal holidays. For any complaint outside of business hours, within two hours (2) of start of business hours	quarterly