

# SCOOTER SHARE PROGRAM AGREEMENT

**THIS SCOOTER SHARE PROGRAM AGREEMENT** (this “Agreement”), effective as of the date set forth on the signature page hereto (the “Effective Date”), is entered into by the municipality named as City on the signature page hereto (“City”), and **Zagster, Inc.**, a Delaware corporation (“Zagster”). Capitalized terms used but not defined herein shall have the meaning ascribed to them in that certain Master Services Agreement dated March 24, 2017 (the “MSA”) between Zagster and St. Lucie County BOCC (“County”).

## WITNESSETH:

**WHEREAS**, pursuant to the MSA, Zagster provides County certain bicycle sharing services (the “Bicycle Services”); and

**WHEREAS**, pursuant to that certain Interlocal Agreement for the Installation, Maintenance and Use of St. Lucie Transit Bicycle Share Stations dated November 7, 2017 (the “Interlocal Agreement”) between County and City, City among other things (i) agreed to the installation of bicycle share stations and (ii) granted a revocable permit to County for the location of such stations;

**WHEREAS**, in addition to the Bicycle Services, Zagster is in the business of operating an electric scooter sharing service (collectively, the “Scooter Services”) in partnership with one or more scooter providers, to be selected by Zagster in its sole discretion from time-to-time (each, a “Scooter Provider”); and

**WHEREAS**, City desires for Zagster to engage a Scooter Provider for the benefit of City and its residents and tourists, and to provide the Scooter Service on the terms and conditions set forth herein;

**NOW, THEREFORE**, for the mutual premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Zagster agree as follows:

### I. **Services.**

a. **Inspection and Maintenance.** During the Term (as hereinafter defined), Zagster will inspect each scooter as set forth on **Exhibit A**, attached hereto and made a part hereof (the **Service Details**) to perform general maintenance, inspection, cleaning and replacement thereof. Zagster will engage a Scooter Provider to provide at least the number of scooters identified as the Scooter Minimum in Service Details; provided, however, that (i) in the event that Zagster changes Scooter Providers during the term, the requirement to provide the Scooter Minimum will be suspended during the period of transition between Scooter Providers, (ii) Zagster may provide less than the Scooter Minimum through the Program during weather that is unfavorable for scooter use, in Zagster’s sole discretion (including hibernation periods, if applicable), and (iii) Zagster may provide less than the Scooter Minimum through the Program if the Scooter Provider or Zagster determine in good faith that it is unsafe to deploy any scooters (e.g., defects

with respect to a particular model or other condition outside of Zagster's control). The Service Details shall also set forth, at a minimum, the Scooter maximum, the hours of operation for the Service, the anticipated launch date for the Program, and any applicable service level agreements relating to pick up and recharge times.

b. **Access.** End users will access the scooters provided by the applicable Scooter Provider either through the applicable Scooter Provider's app, the Zagster app and/or the Pace app.

c. **Electronic Bike Share.** Zagster shall also have the exclusive right, but not the obligation, to launch an electric bicycle share within the first twelve months of launching the Program with the Customer. Customer agrees that such electric bicycle share will be granted the same access to Customer-owned property as the Program, and that the terms and conditions applicable to Scooters.

d. **Parking Zone Decals.** In the event that the parties desire for Zagster to place decals to denote for Scooter parking zones (each, a **Zone** and collectively, the **Zones**), the parties shall first mutually-agree upon the location of each such Zones and will work together on any necessary permitting or approval required for placement of such parking zone decals.

e. **Advertisements.** Zagster may promote Sponsors, Zagster, Pace or the Scooter Provider on advertisements located on the scooters and/or the Zones.

**II. Fees.** Fees for the Program and the Service shall be charged by Zagster or the Scooter Provider to the end users of the Program. Such fees shall be determined by Zagster from time-to-time, in its sole discretion, and Zagster or Scooter Provider will retain all such revenue. Neither Zagster nor Scooter Provider shall charge Customer for the Program or the Service. In the event that Zagster obtain third party sponsors for the Program or any advertisements for the Program, Zagster will retain all revenue derived therefrom.

**III. Exclusivity.** During the Term, Zagster shall be the only scooter sharing, scooter rental provider and/or electric bike share provider with the right to use any Customer-owned property or promoted by Customer.

**IV. Exclusive License to Customer Real Estate.** Customer grants to Zagster and its users an exclusive, nontransferable (except pursuant to the Assignment provisions of the Bike Share Agreement), royalty-free, worldwide license to (i) secure, lock and/or park scooters on or to any legally-permissible scooter parking on Customer-owned property, including Zones, racks, corrals and sidewalks and (ii) to access Scooters parked or staged on Customer-owned property for the provision and utilization of the Program and the Services.

**V. License to Customer IP.** During the Term, Customer grants to Zagster a nonexclusive, nontransferable (except pursuant to the Assignment provisions of the Bike Share Agreement), royalty-free license to reproduce, display and otherwise use Customer's trademarks (**Customer IP**) solely (i) to promote the Program, (ii) to list

Customer on Zagster's customer lists and website, and (iii) in connection with the name of the Program. All use of Customer IP and any resulting goodwill shall accrue solely to the benefit of Customer. In addition to the foregoing, Customer grants Zagster an unlimited, irrevocable, perpetual, transferable, royalty-free, worldwide license to use and/or incorporate into the Program any feedback, suggestions or recommendations related thereto that Customer or its agents or employees provide to Zagster.

**VI. Press Release.** Zagster may issue a press release announcing the parties' relationship hereunder. Zagster will provide Customer with a copy of any proposed press release prior to issuance and Customer shall have the right to provide any comments or feedback related thereto.

**VII. Term; Termination.** Unless earlier terminated in accordance with this Section, this Agreement is effective as outlined in Exhibit A

Either party may terminate this Agreement (i) if the other party is adjudicated bankrupt or otherwise seeks to avoid its performance obligations under applicable bankruptcy or insolvency laws or (ii) upon the occurrence of a material breach of this Agreement by the other party if such breach is not cured within 30 days after written notice identifying the matter constituting the material breach. In the event that the Bike Share Agreement is terminated prior to the expiration or termination of this Agreement, the terms referenced in the Bike Share Agreement and used herein shall remain effective until the expiration or earlier termination of this Agreement.

**VIII. Applicable Bike Share Agreement Terms; Amendment to Bike Share Agreement.** The terms set forth in the Bike Share Agreement pertaining to Title to IP, Confidentiality, Warranty Disclaimer, Limitation of Liability, Insurance, and the General Provisions (to the extent not otherwise set forth herein) shall apply to this Agreement as if restated herein in their entirety. As additional consideration for entering into this Agreement, the parties agree to amend the Bike Share Agreement as set forth on **Exhibit B**, attached hereto and made a part hereof.

**IX. General Provisions.**

a. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which is an original, but taken together constituting one and the same instrument.

b. **Survival.** Sections II through IX shall survive the termination or expiration of this Agreement.

c. **Entire Agreement.** This Agreement constitutes the entire agreement, and other than the Bike Share Agreement, supersedes all prior negotiations, understandings or agreements (oral or written), between the parties concerning the subject matter of this Agreement. If there are any conflicts between the terms and provisions of this Agreement and the terms and provisions of the Bike Share Agreement, the terms and provisions of this Agreement shall govern and prevail.

**Signatures appear on the following page**

**In witness whereof**, the parties have executed this Agreement as of the Effective Date set forth below

**CUSTOMER:**

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By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ZAGSTER:  
ZAGSTER, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Effective Date:

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**Exhibit A**  
**Services Details**

<b>Contractual launch date of the Scooter Program at such Proposed Location (the “Launch Date”)</b>	June 1, 2019 (estimated)
<b>Number of scooters at Launch Date, and subsequent expansion schedules</b>	Initial launch of 325 scooters with the ability to scale to 450 to meet demand.
<b>Additional obligations</b>	<ul style="list-style-type: none"><li>• Zagster will work with Saint Lucie County to establish zones for scooter operation, and specific zones that will regulate speed automatically once a rider enters that zone, these zones will be reflected in the mobile app</li><li>• Zagster may choose to provide virtual parking decals at mutually agreed locations.</li><li>• Zagster will pick up or swap a battery, charge and perform a safety check on each scooter after it hits twenty (20%) percent battery charge, or a charge reflecting a single ride left on the scooter, as quickly as operationally and commercially feasible</li><li>• Zagster will collect, charge, perform a safety check on, and redeploy each scooter in the fleet at least once a week</li></ul>
<b>Initial hours of operation</b>	7am to 9pm
<b>Service area</b>	Saint Lucie County limits as defined by both parties during the planning phase in advance of the launch date

**Exhibit B**  
**Amendments to Bike Share Agreement**

None.