DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK

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DEPARTMENT OF CONSUMER AFFAIRS, Complainant, -against- **A S K Standard Transit Corp.** 348 West 57 Street New York, NY 10019 Respondent.	**CONSENT ORDER** **Violation No.** **LL 5287217** **PEDICAB BUSINESS** **License # 1338365**

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A S K Standard Transit Corp. ("Respondent") is licensed by the New York City Department of Consumer Affairs ("DCA" or "the Department") and was served with a Notice of Hearing in connection with Respondent's pedicab business activity. Respondent consents to this Consent Order ("CO") with the New York City Department of Consumer Affairs ("DCA" or "the Department") to settle the violations of laws and rules in that Notice of Hearing and agrees as follows:

I. ACKNOWLEDGEMENT OF SERVICE & VIOLATIONS

A. Respondent acknowledges receipt of the Notice of Hearing in the above captioned matter, which charged it with violating provisions of Title 20, Chapter 2, Subchapter 9, Section 20-249 *et seq.* of the New York City Administrative Code ("Code") and Title 6 of the Rules of the City of New York ("6 RCNY"), Chapter 2, Subchapter GG, Section 2-415 *et seq.* in connection with its pedicab business license.

B. Respondent admits that it violated the charges alleged in the Second Amended Notice of Hearing, dated March 30, 2012, to wit: (1) Code Section 20-259(d) by failing to timely report an accident to the Department; (2) Code Section 20-257(b) by permitting a pedicab driver to operate one of its pedicabs without a current pedicab driver's license; and (3) 6 RCNY Section 42(c) by failing to comply with the terms of the settlement agreement executed on December 21, 2010. Respondent does not admit, however, that the noncompliance of the settlement agreement was "material."

II. INJUNCTIVE RELIEF

A. Duty to Continue to Comply with Prior Assurance of Discontinuance ("AOD")

1) Respondent acknowledges its continuing obligations and responsibilities pursuant to its settlement with the Department memorialized in the AOD dated December 21, 2010. Nothing in this CO shall be construed as cancelling or replacing the obligations set forth in the AOD dated December 21, 2010.

B. Duty to Comply with Law

1) In the conduct of Respondent's pedicab business, Respondent and its agents shall strictly and promptly comply with Chapter 1 of the Code, beginning at Section 20-101 (known as the License Enforcement Law); Chapter 2, Subchapter 9, Section 20-249 *et seq.* of the Code (known as the Pedicab Licensing Law); Chapter 5, Subchapter 1, Section 20-700 *et seq.* of the Code (known as the Consumer Protection Law); 6 RCNY Section 5-01 *et seq.* (known as the Consumer Protection Law Rules); Chapter 2, Subchapter GG of 6 RCNY (known as the Pedicab License Rules); and this Assurance.

C. Additional Duties

1) Respondent shall inspect every DCA Pedicab License and Motor Vehicle Drivers License each and every day that a pedicab bicycle is leased. Said inspection shall be recorded on the Pedicab Daily Operational Log and Respondent shall record the expiration date for the DCA Pedicab License thereon.
2) Respondent shall conduct an instant license check on the Department's internet site weekly for every driver to whom it assigns a Pedicab to operate to confirm that the DCA Pedicab license of the driver is current on that day, and for the following six days, or whenever the assignment expires.
3) On a bi-weekly basis, Respondent shall log in to WebCrims, a Web site of the New York State Unified Court System, to check whether there is information indicating that Respondent's pedicab drivers may have been issued a summons, complaint, or notice of violation of a law or regulation in connection with the operation of Respondent's pedicabs. Respondent shall create and maintain a log stating the date and time when it logged in to WebCrims and the names of all of the pedicab drivers checked.
4) Respondent shall permanently bar from operating a company pedicab every driver who fails to comply with the reporting requirements of Code § 20-259(i).
5) Respondent shall notify the Department of the name and license number of every driver whom it bars from operating a company pedicab pursuant to II(C)(4) of this CO within one business day of barring the driver, and shall provide the Department with all identifying information about the summons, complaint or notice of violation

that the pedicab driver failed to report to Respondent within five business days of barring the driver.

6) Respondent shall create and maintain a chart that lists in chronological order all summonses, complaints or notices of violations of any law or regulation that have been issued to its drivers and the disposition that includes the following information:

   a) Date of violation;
   b) Name of pedicab driver;
   c) Pedicab driver license number;
   d) Description of violation;
   e) Name of agency issuing the violation;
   f) Violation number;
   g) Date of case disposition; and
   h) Disposition (guilty, not guilty, dismissed).

7) Respondent shall comply with sections II(C)(1)-(6) of this CO until December 31, 2013.

D. <u>Respondent's duty to provide proof of compliance with this CO</u>

1) No later than thirty (30) days from the date of this CO, and every month thereafter, Respondent shall provide the Department a report that contains: (i) copies of the daily Pedicab Drivers Daily Log with the additional license check data included; (ii) a certification personally signed by Respondent that, during the preceding month, it checked and verified that each driver leasing a pedicab from its premises was operating with a current and valid DCA pedicab driver's license; (iii) copies of the chart described in section II(C)(6) of this CO; and (iv) copies of any summonses, complaints, or notices of violation issued to drivers in connection with the operation of its pedicabs and dispositions that it obtained from its driver in the preceding month.

2) The report described above must be transmitted to the Department no later than the fifth (5th) day of the month following the month for which it reports.

3) Respondent shall hand deliver or mail the above report and other documents to the **Legal Division located at 42 Broadway, 9th Floor, New York, NY 10004** or e-mail them to: **pedicabs@dca.nyc.gov**.

E. <u>Duty to Provide Complete and Truthful Information</u>

1) Respondent, its officers, managers and the beneficial owners of 10% or more of the shares of Respondent, shall provide complete and truthful information in every submission it makes to the Department and shall not engage in fraud, misrepresentation or concealment or falsification of any material fact in any written or oral statements submitted to the Department.

III. FINES & RESTITUTION

A. Respondent shall pay a fine of **$15,000** in settlement of all the violations charged in the Notice of Hearing for violation number LL 5287217 in the form of a bank check or money order made payable to the "NYC Department of Consumer Affairs" according to payment schedule/agreement attached to this CO.

B. At or before the execution of this CO, Respondent shall pay restitution of **$500** in settlement of damages to Ms. Aileen McNally for damages incurred to her motor vehicle on November 12, 2011 by the pedicab driver in Respondent's employ. Restitution shall be made by bank check or money order made payable to "Aileen McNally" and delivered to representatives of the NYC Department of Consumer Affairs until transmittal to Ms. McNally may be arranged.

IV. CONSEQUENCES OF BREACH OF CO

A. Any material breach of any provision of this CO, including sections II(A)(1), II(B)(1), and II(C)(1)-(7) by either Respondent and/or Respondent's agent, shall be a basis for automatic revocation of license(s) issued to Respondent by the Department. Respondent's failure to pay any restitution or fine ordered by the Department's administrative tribunal or any consumer restitution awarded by any other court of competent jurisdiction within thirty days of Respondent's receipt of the decision of such court shall be deemed a material breach of this CO. Prior to automatically revoking a license pursuant to this paragraph, the Department shall provide written notice to Respondent of any acts or failures to act DCA believes may be, or determines are, "material breaches" of this CO and a pre-revocation opportunity to be heard by DCA within fourteen days of the mailing of the written notice.

B. Any material breach of any provision of this CO shall be deemed to be proof that no person who has an equity interest of 10% or more in Respondent's business and/or significant managerial responsibility for the operation of Respondent's business, is possessed of the characteristics, including integrity, honesty, and fair dealing, required of persons who or which hold any license issued by the Department.

C. Prior to determining that a material breach occurred pursuant to this subsection, the Department shall provide written notice to Respondent of any acts or failures to act DCA believes may be, or determines are, "material breaches" of this CO and an opportunity to be heard by DCA within fourteen (14) days of the mailing of the written notice.

V. WAIVER OF APPEALS

A. Respondent waives Respondent's right to a hearing on, appeal of and/or any challenge of, in any forum, the facts alleged by the above-referenced violation under Sections 20-104 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, Sections 7801-7806.

VI. MISCELLANEOUS

A. Nothing in this CO shall be construed to limit in any way the authority of the Department to exercise its enforcement powers under the Code.

Agreed to for the Respondent by:

Signature Date

Asen Kostadinov

Print Name

Accepted for the Department of Consumer Affairs by: [redacted]

[redacted] 4/25/12

Signature Date

[redacted]

Print Name

Businesses licensed by the Department of Consumer Affairs (DCA) are required to comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.