Chippewa Cree Tribe
Rocky Boy Public Schools Energy Efficiency Project
Campus Buildings, Lighting Upgrade
Energy Fund Option

<u>Executive Summary</u>

mCloud is excited to partner with the Rocky Boy Public Schools in enabling energy and cost savings, including the project defined below:

Project Site: Rocky Boy Public Schools

Buildings: Rocky Boy High School
                 81 Mission Taylor Rd
                 Box Elder, MT 59521

<u>Project Objectives</u>: mCloud will provide a lighting retrofit complemented with mCloud's AssetCare™ solution, to achieve the following:

- Achieve reduction in electrical energy consumption and peak demand with more efficient LED bulbs
- Optimize lighting use to work with occupancy schedules through the addition of smart light switches
- Reduce service visits (and cost) through the elimination of existing light ballasts
- Achieve visibility on lighting use through ongoing monitoring by AssetCare

<u>Statement of Work Summary</u>. mCloud has already completed a lighting asset inventory. In order to achieve the objectives above, mCloud proposes the following:

- Lighting retrofit:
  - Including appropriate ballast-bypassed linear LED bulbs (1,108) for existing fixtures and smart (connected) switches (22)
  - Bypassing of all ballasts
  - AssetCare cloud-based energy management solution providing the following services:
    - Lighting data monitoring, analysis and trending
    - Lighting assessment and diagnostics
    - Lighting scheduling and conformance

- mCloud will charge a monthly fee to cover the capital expenditure requirements and service costs for the Rocky Boy Public Schools lighting program.

Project Economics. mCloud will support the above statement of work using a service model. The Rocky Boy Public Schools will pay a fixed service fee for 36-months.

- Lighting Retrofit Project Cost: **$1,280**/month ($46,080)
- Total Expected 7-year Energy Savings: **$107,617**

Getting Started. With Customer's verbal approval, mCloud will provide a Service Agreement that includes both the Statement of Work and Terms and Conditions for each party to sign. Once the retrofits are completed satisfactorily, Customer will sign an acceptance form. Simultaneously, AssetCare will initiate its service period, and mCloud will report energy and maintenance savings on a monthly basis.

mCloud Service Agreement

This SERVICE AGREEMENT ("Agreement") is entered into as of _____ ("Effective Date") by and between the Rocky Boy Public Schools ("Customer") and Universal mCloud USA Corp., a Delaware Corporation ("mCloud").

1. **Scope of Services**. mCloud will provide the Services to the Customer in accordance with terms of this agreement and the applicable Statement of Work, attached in Exhibit A. Any modifications to the Statement of Work will be substantially in the form attached hereto as Exhibit A, and agreed upon in writing by both parties. Customer will execute the 'Customer Acceptance Form' (Exhibit B) after the installation of lighting is completed.

2. **AssetCare Subscription**. During the term of the AssetCare Subscription, Customer will permit temporary changes in lighting schedules for mCloud to deliver its Services. Consumption data is owned by the Customer, which grants mCloud permission to use the data in support of the Services during this and any renewal term, and in an anonymized manner thereafter. Additional terms and conditions are required for end-user's web-based access to the AssetCare software.

3. **Personnel.** Whenever present on Customer's premises, mCloud personnel and representatives will comply with all Customer-provided policies and procedures governing on-site work.

4. **Term and Termination**. The Agreement will commence on the Effective Date and expire at the end of latest term specified in the Statement of Work, or when the final payment is received, whichever is later. Thereafter, this AssetCare Subscription shall be subject to renewal.

   4.1. **Termination**. Any party may terminate this Agreement or any Statement of Work: (a) for material failure by another party to comply with the terms of this Agreement or Statement of Work, respectively, provided such material failure is not cured within thirty (30) days after written notice of the breach is received from the other party); (b) immediately in the event another party seeks the protection of any bankruptcy court, becomes insolvent, or makes an assignment for the benefit of creditors; or (c) in the event a *Force Majeure* suffered by one party causes any delay in or interference with the performance of such party under this Agreement, and such delay or interference continues for more than thirty (30) days, with such termination effective upon written notice of termination to the non-performing party.

   4.2. **Effect of Termination**. Upon termination of any Statement of Work, mCloud will promptly invoice Customer for all unpaid fees and expenses related to Services. Customer will pay such invoice within thirty (30) days of receipt, and will have no further payment obligations regarding the Statement of Work.

5. **Confidential Information.** Each party may be given access to Confidential Information from the other party to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that: is or becomes publicly known other than through any act or omission of the receiving party; is in the other party's lawful possession before the disclosure; is lawfully disclosed to the receiving party by a third party without restriction on disclosure; is independently developed by the receiving party, which independent development can be shown by written evidence; or is required to be

disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body. Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement. The Customer acknowledges that details of the Services, including results thereof, also constitute mCloud's Confidential Information. This clause shall survive termination of this Agreement, however arising.

6. **Representations and Warranties**. mCloud represents and warrants that: (a) it is financially solvent and can perform its obligations hereunder; (b) the Services to be provided by it will not infringe or violate any patent, copyright, trade secret, trademark, or other third-party intellectual property right; and (c) all Services performed by it will be performed in accordance with applicable laws and regulations, and will meet or exceed generally accepted industry practices. Company's sole remedy for mCloud's breach of any representation or warranty under Section 6 shall be the re-performance of the Services by mCloud, as applicable.

7. **Indemnification**. To the maximum extent allowed by law, each Party (the "Indemnitor") will indemnify and hold harmless the each of other parties and its respective employees, and agents (the "Indemnitees"), from and against any and all third party claims, losses, damages, suits, fees, judgments, costs and expenses (collectively referred to as "Claims"), including reasonable attorneys' fees incurred in responding to such Claims, that the Indemnitees may suffer or incur arising out of or in connection with (a) the Indemnitor's gross negligence, willful misconduct, or breach of the representations and warranties set forth herein; (b) any allegation that the Indemnitees' receipt of the Services or the Intellectual Property infringes or violates any patent, copyright, trade secret, trademark, or other third party intellectual property right; or (c) any personal injury (including death) or damage to property resulting from the Indemnitor's or its agents' acts or omissions. The Indemnitees will give prompt notice of any Claim to the Indemnitor, and the Indemnitor will defend the Indemnitees at the Indemnitees' request.

8. **Limitation of Liability**. Notwithstanding anything to the contrary in this Agreement or any applicable Statement of Work, no Party shall be liable to any other for indirect, incidental, special, punitive or consequential damages, including damages for lost opportunities, lost profits from this Agreement or any other transaction, or lost savings, even if such damages were foreseeable or result from a breach of this Agreement. In no event will mCloud be responsible for any liabilities or damages resulting from, or in any way related to, this Agreement, whether in contract, warranty, indemnity, tort (including negligence), strict liability, or otherwise greater than the fees paid to mCloud, respectively.

9. **Independent Contractor**. The status of mCloud will be that of independent contractors, and mCloud employees will not be deemed employees or agents of the Customer. None of the terms set forth in this Agreement will be construed as creating a partnership, joint venture, agency, master-servant, employment, trust, or any other relationship among Customer, mCloud, or their employees or agents.

10. **Assignment**. Neither this Agreement nor any rights granted hereunder may be sold, leased, assigned, or otherwise transferred, in whole or in part, by either Party, without the advance written consent of the

other Party. Such consent cannot be unreasonably withheld or delayed; provided, however, that such consent shall not be required if either Party assigns this Agreement to a wholly owned subsidiary or in connection with a merger, acquisition or sale of all or substantially all of its assets.

11. **Use of Name and Publicity**. Unless expressly prohibited by Customer, the Customer consents to the use of its name, logo, trademark, trade name, or other marks in mCloud's marketing and investor materials as a representative client of mCloud. Any release of additional information regarding Services and its performance requires the prior written or electronic consent of both parties.

12. **Notices.** Unless otherwise required under this Agreement, notices permitted or required to be given will be deemed sufficient if given by mail, or courier service, addressed to the individual specified below, or to such other individuals as the respective parties may designate by notice from time to time. Notices so given will be effective upon receipt by the party to which the notice is given.

If to Customer: If to mCloud:

                                                   Dave Weinerth
Rocky Boy Public Schools   mCloud Corp.
81 Mission Taylor Rd   580 California Street, 12th Floor
Box Elder, MT 59521   San Francisco, California 94104

13. **Changes and Modifications**. The terms and conditions of this Agreement or any Statement of Work may not be amended, waived or modified, except in writing, signed by all parties.

14. **Severability**. In the event that any provision of this Agreement is held invalid or unenforceable in any circumstances by a court of competent jurisdiction, the remainder of this Agreement, and the application of such provision in any other circumstances, will not be affected thereby.

15. **Force Majeure**. None of the parties will be liable for any loss, damage or delay to extent that such loss, damage or delay results from any act of God, fire or explosion, flood, war, terrorism, riot, or act of governmental authority (a "Force Majeure Event") and delivery and performance dates will be extended to the extent of any delays resulting from such Force Majeure Event. Each party will promptly notify the other upon becoming aware that any Force Majeure has occurred or is likely to occur and will strive diligently to minimize any delay in or interference with the performance of its obligations under this Agreement.

16. **Sovereign Immunity and Dispute Resolution**. This Agreement shall in no way operate or be construed to waive, limit, diminish or otherwise affect the sovereign immunity of the Chippewa Cree Tribe and/or its affiliates. Without limiting the forgoing, both parties agree that the provisions of this paragraph shall specifically apply to all obligations and covenants of the parties, and to all terms set out in this Agreement. The Chippewa Cree Tribal Court shall be the venue for resolution of all disputes. Remedies under the Uniform Commercial Code are expressly limited by the Tribes' sovereign immunity from suit and nothing this Agreement shall be interpreted as a waiver of such immunity.

17. **Attorneys' Fees**. The prevailing party in any action regarding any of the provisions of this Agreement shall be entitled to its reasonable attorney's fees incurred in said enforcement, including those on appeal as well as any costs incurred therein.

18. **Counterparts**. This Agreement may be executed in counterparts, all of which when taken together constitute a single agreement.

19. **Entire Agreement**. This Agreement, including all Statements of Work and any other documents referenced herein, constitutes the entire agreement among the parties with respect to the subject matter hereof, and supersedes all other communications, including but not limited to all prior agreements, between the parties with respect to such subject matter.

ACCEPTED AND AGREED:

UNIVERSAL MCLOUD USA CORPORATION.   **Rocky Boy Public Schools**

*By*_____   *By*_____

Name_____   Name_____

Title_____   Title_____

Date_____   Date_____

EXHIBIT A
STATEMENT OF WORK

Phase I: Lighting Project

1.1. Lighting Deliverables

Based on an analysis of the location and site survey details, mCloud will supply and install, with the support of a licensed electrician, equipment and software indicated as follows:

- **1048** T8 LED 4' tubes (color 4000K) to replace existing 4' T8 fluorescent tubes
  - **Note: T8 LED 4' tubes will be installed in existing T8 fixtures while bypassing ballasts**
- **30** T5 LED 4' tubes (color 4000K) to replace existing 4' T5 fluorescent tubes
  - **Note: T8 LED 8' tubes will be installed in existing T8 fixtures while bypassing ballasts**
- **30** T8 LED 2' U-type tubes (color 4000K) to replace existing 2' U-type T8 fluorescent tubes
  - **Note: T8 LED 2' U-type tubes will be installed in existing T8 fixtures while bypassing ballasts**
- **22** Smart Switches (cloud-connected)
- **1%** spare bulb ratio
- **618** ballasts bypassed
- AssetCare cloud-based energy management solution providing the following services:
  - asset data monitoring, analysis and trending
  - lighting assessment and diagnostics
  - lighting scheduling and conformance
  - Web-based dashboard

mCloud will charge a monthly fee to cover the capital expenditure requirements and service costs for the Rocky Boy Public Schools lighting program. Net electricity cost savings will be achieved monthly starting from the first month.

1.2. Lighting Schedule

Implementation will be scheduled no later than 4 weeks from receipt of customer approval, or as mutually agreed. It is understood that there may be excusable delays from factors outside of the control of mCloud Corporation and the Rocky Boy Public Schools such as labor disputes, fires, accidents, acts of war, governmental interference and other similar circumstances.

Once mobilized, the mCloud field service team will perform onsite work expeditiously with as little disruption as possible. Target milestones for the implementation are:

- December, 2018 - Site assessment survey
- December, 2018 - Project Sign-off
- January, 2018 – Project completion and acceptance

Exhibit B
Customer Acceptance

Phase 1: Lighting Project

By signing this form below, Customer agrees that the lighting equipment and installation in the Statement of Work have been completed satisfactorily. Customer assumes ownership of the equipment immediately, less any general security provided to mCloud as a result of the remaining service payments.

*By*_____

Name_____

Title_____

Date_____