TRANSPORTATION EQUIPMENT SERVICES AGREEMENT

I. INTRODUCTION

This Transportation Equipment Services Agreement ("**Agreement**") between the Customer and the Provider listed below (each a "**Party"**) is effective as of last date of signature of this Agreement ("**Effective Date**"). The Agreement includes and incorporates this **Part 1**, including the "Scope of Services" and its Exhibits and Schedules, included as **Part 1**, and the "Terms and Conditions" and its Exhibits, included as **Part 2,** as listed below:

Part 1 – **Transportation Equipment Services Agreement Introduction, Recitals, Scope of Services; Execution**
- **Exhibit 1A** –Vehicle Specifications; Annual Vehicle Work
- **Exhibit 1B** – Preliminary System Site Plan
- **Exhibit 1C** – Incentive Compliance

Part 2 –**Terms and Conditions**
- **Exhibit 2A** – Operational Date Certificate
- **Exhibit 2B –** Termination Payment
- **Exhibit 2C -** Customer-Specific Provisions

RECITALS

To improve the ridership and driver experience, and generate environmental and health benefits, Customer desires to transition all or part of its vehicle fleet to electric vehicles. Provider's turnkey "Fleet" services involve three major components: (1) procurement and ongoing ownership of electric vehicles, chargers, and related infrastructure, (2) installation of the chargers and infrastructure, and (3) ongoing operational services including training, equipment operations and maintenance, charging (and paying for electricity), and provision of charge management and telemetry data via web-based software platform. The services are provided in exchange for an annual contract price paid by Customer to Provider.

II. SCOPE OF SERVICES

This Scope of Services provides, in summary format, references and definitions for the Services to be provided by Provider to Customer under this Agreement. This Scope of Services is a summary and is modified by the Exhibits and Schedules to this Scope of Services and by the Terms and Conditions.

1. Parties; Notice Addresses:	(a) Customer: Edina Public Schools, a Minnesota public school district Notice Address: 5701 Normandale Road, Edina, MN 55424 Contact Name and Title: Mert Woodard, CFO/Director, Finance & Operations Contact Phone and Email:(612)-743-5296; mert.woodard@edinaschools.org (b) Provider: HEF-P Edina, LLC, a Delaware limited liability company Notice Address: 200 Cummings Center, Suite 273D, Beverly, MA 01915 Contact Name and Title: Benjamin Schutzman, Vice President Contact Phone and Email: (610)-220-5841; ben@highlandfleets.com, copy to notices@highlandfleets.com
2. Services:	Customer retains Provider to provide, and Provider will provide the following "**Services**" for the Contract Price (defined in the Terms and Conditions), for the period identified below: (a) ***Consulting Services:*** Assist in planning for fleet electrification, including identifying incentives for future deployments; (b) ***Procurement Services:*** From the Effective Date through the Operational Date (defined below), and thereafter in Provider's judgment, specify and procure the System (defined below), selecting components that optimize System performance and efficiency in light of Customer requirements; (c) ***Installation Services:*** Beginning the Effective Date, design, obtain required Approvals (defined in the Terms and Conditions) for, install, interconnect, and start-up, Chargers, Infrastructure, and related improvements at the Premises (defined below), consistent with the final System Site Plan (defined below); (d) ***Training Services:*** Before the Operational Date, at mutually agreed time(s), coordinate original equipment manufacturer ("**OEM**") training and provide training in use of the System to Customer personnel; (e) ***Charge Management Services:*** From the Operational Date through the remainder of the Term (defined below) charge Vehicles (defined below) and pay for related electricity;

	and license the Platform (defined below) to Customer as provided in the Terms and Conditions; and **(f)** ***Operations Services***: From the Operational Date through the remainder of the Term provide Vehicles for use during the agreed Vehicle Operation Period or VOP (defined below); provide access for Vehicles to, and operate and maintain, Chargers and Infrastructure; and reimburse Customer for Vehicle maintenance and repairs performed by Customer in accordance with the Terms and Conditions.
3. Vehicles; Chargers; System; Platform:	Provider's Services will be based on the operation and use of: (a) **Two (2) Type C** electric school buses, as further described on **Exhibit 1A** (each, a "**Vehicle**"); (b) Electric vehicle charging stations installed at the Premises, as further described on the preliminary System Site Plan attached as **Exhibit 1B** (each, a "**Charger**"); (c) Related equipment and infrastructure installed at the Premises, consistent with **Exhibit 1B** (collectively, "**Infrastructure;**" the Vehicles, Chargers, and Infrastructure, collectively, the "**System**"); and (d) The license to the Customer of Provider's intellectual property rights in the fleet management software platform that supports the System (the "**Platform**"), subject to the license terms set forth in the Terms and Conditions.
4. Premises:	The Chargers and Infrastructure will be installed and operated at, and the Vehicles will be stored at, the real property and improvements thereon (the "**Premises**") owned and occupied by Customer and having a street address of: **5201 W 76th St, Edina, MN 55439**. **Exhibit 1B** includes a preliminary plan ("**System Site Plan**") reflecting the layout of the System on the Premises. The preliminary System Site Plan is subject to revision as provided in the Terms and Conditions.
5. Operational Date; Anticipated Operational Date:	The date the Parties agree that the System is capable of being operated in accordance with the Terms and Conditions is the "**Operational Date,**" as further described in the Terms and Conditions. The System, including all Vehicles, will be operational, as contemplated by the Terms and Conditions, on the date ("**Anticipated Operational Date")** that is **twelve (12)** months after the Effective Date.
6. Term:	(a) "**Initial Term**": The period beginning the Operational Date, and ending on the last day of the **tenth (10th)** Contract Year (defined below). (b) "**Extension Term"**: None, unless otherwise agreed. (c) "**Term**" means the period beginning the Effective Date and ending on the last day of the Initial Term or of the last Extension Term, as applicable, subject to earlier termination as provided in this Agreement. (d) "**Contract Year**" means the 12-month period in the Term beginning the Operational Date or anniversary of the Operational Date.
7. Performance Assurances:	Subject to and as further detailed in the Terms and Conditions, Provider's Services are supported by the following performance assurances: ***Charger Uptime Guarantee.*** Provider guarantees that the Charger ports will be Available (defined in the Terms and Conditions) to charge the Vehicles, measured each Contract Year based on a minimum Availability percentage, subject to agreed exclusions. ***Route Readiness Guarantee***: Provider guarantees that each Vehicle will be sufficiently charged for its first, regular Designated Route (defined in the Terms and Conditions) on each day in the VOP (defined below), subject to agreed exclusions. ***Service Promise***: Provider agrees to promptly respond to Customer requests regarding System issues, to escalate Vehicle repair issues to appropriate parties, and to regularly evaluate System for performance matters.
8. Operating Parameters:	(a) **"Annual Mileage Allowance"**: **10,920** miles/Vehicle/Contract Year (b) "**Vehicle Operating Period**" or "**VOP**" includes the following: (i) **6:00 am to 9:00 am and 2:00 pm to 5:00 pm** ("**Regular Operating Session**") on any day in Customer's published school year during the Term on which Customer's educational activities are in regular session;

	(ii) The period outside of the Regular Operating Session that Customer operates a Vehicle for "**Planned Excursion**," in accordance with the Terms and Conditions. (c) "**Distance Limitation**:" **250** miles away from the Premises in any direction.
9. Provider Use of System:	As detailed in the Terms and Conditions, Provider has the right to use the System outside the VOP, including to deploy the System to provide grid services (demand response and similar), charging (including charging-for-a-fee), or building electricity, so long as this Provider use does not interfere with the Services.
10. Contract Price; Performance-Based Adjustments:	(a) **"Base Service Fee"**: **$18,100.00** per Vehicle per Contract Year, as provided in the Terms and Conditions, subject to escalation beginning the second Contract Year at a rate ("**Annual Escalator")** equal to **3%**/year, subject to adjustment as provided in the Terms and Conditions. (b) Performance-Based Fees and Credits: (i) **"Excess Mileage Fee"**: **$3.00** per mile per Vehicle per Contract Year above Annual Mileage Allowance (ii) "**Time of Use Fee**": **$50.00** per hour outside of VOP per Vehicle. (c) If the Charger Uptime Guarantee is not satisfied in a Contract Year, then, for each **1%** below **97%** that System Chargers are not "Available" (defined in the Terms and Conditions) in that Contract Year, Provider will provide "**Availability Credits**" to Customer equal to **1%** of the aggregate Base Service Fee paid for the Contract Year. (d) If the Route Readiness Guarantee is not satisfied for a Vehicle on any day in the VOP during the Term, Provider will provide a "**Downtime Credit"** to Customer equal to **$100.00** per day per Vehicle. (e) The total amount of Availability Credits and Downtime Credits that accrue in a Contract Year are capped at **10%** of the aggregate Base Service Fee paid for that Contract Year.
11. Regular Maintenance Credit and Reimbursement Rates:	Provider will reimburse Customer for Repair Work (defined in the Terms and Conditions), including the "**Annual Vehicle Work**" detailed on **Exhibit 1A**, and Vehicle towing, all in accordance with the Terms and Conditions based on the following: (a) Reimbursable Labor Rate: **$60.00** per hour for Vehicle Repair; (b) Towing Cap: **$650.00** per Vehicle per tow; (c) Parts – reimbursement at cost, subject to coordination with Provider.
12. Existing Incentives:	An "**Existing Incentive"** means any of the following: (a) EPA Clean School Bus Joint Application Rebate for **$200,000.00** per Vehicle; (b) Incentive Tax Credits equal to **$40,000.00**/Vehicle under Section 45W of the Inflation Reduction Act of 2022; and (c) Accelerated depreciation for the System. Existing Incentives shall be paid or credited to Provider. Each Party will comply with the Existing Incentive compliance requirements applicable to such Party set forth on **Exhibit 1C.**
13. Interconnection Limit:	**$0.00**, which covers the expected Provider costs, after applying applicable make-ready Existing Incentives, to connect the System to an on-Premises connection point and to interconnect from that point to the local electric utility system.
14. Governing Law; Venue:	This Agreement shall be governed by and construed in accordance with the domestic laws of Minnesota, without reference to any choice of law principles. The state courts of Minnesota and the federal courts sitting in Minneapolis, Minnesota, shall have exclusive jurisdiction over any action or proceeding arising under this Agreement, with venue lying in Minneapolis, Minnesota.
15. Future Electrification:	As detailed in the Terms and Conditions, Customer and Provider will collaborate to secure Incentives for Customer's future fleet electrifications, and Customer will consider working with Provider to on such future fleet electrifications, subject to applicable law, including procurement law.
16. Other:	See **Exhibit 2C**.

<<<<Signature page follows.>>>>

IV. AGREEMENT EXECUTION

INTENDING TO BE LEGALLY BOUND, Provider and Customer, through their duly authorized representatives, are executing and delivering this Agreement, effective as of the Effective Date.

Customer: Edina Public Schools	**Provider:** HEF-P Edina, LLC
Signature:_____	Signature:_____
Printed Name:_____	Printed Name: _____
Title:_____	Title:_____
Date:_____	Date:_____

Exhibit 1A of Part 1
Vehicle Specifications; Annual Vehicle Work

1. **Vehicle Specifications:** See attached.

2. **Annual Vehicle Work.** As used in this Agreement, "**Annual Vehicle Work**," generally means the annual preventative maintenance prescribed by the Vehicle OEM, and generally will include:

(a) Up to 15 hours of labor, which is the SRT (defined in the Terms and Conditions),

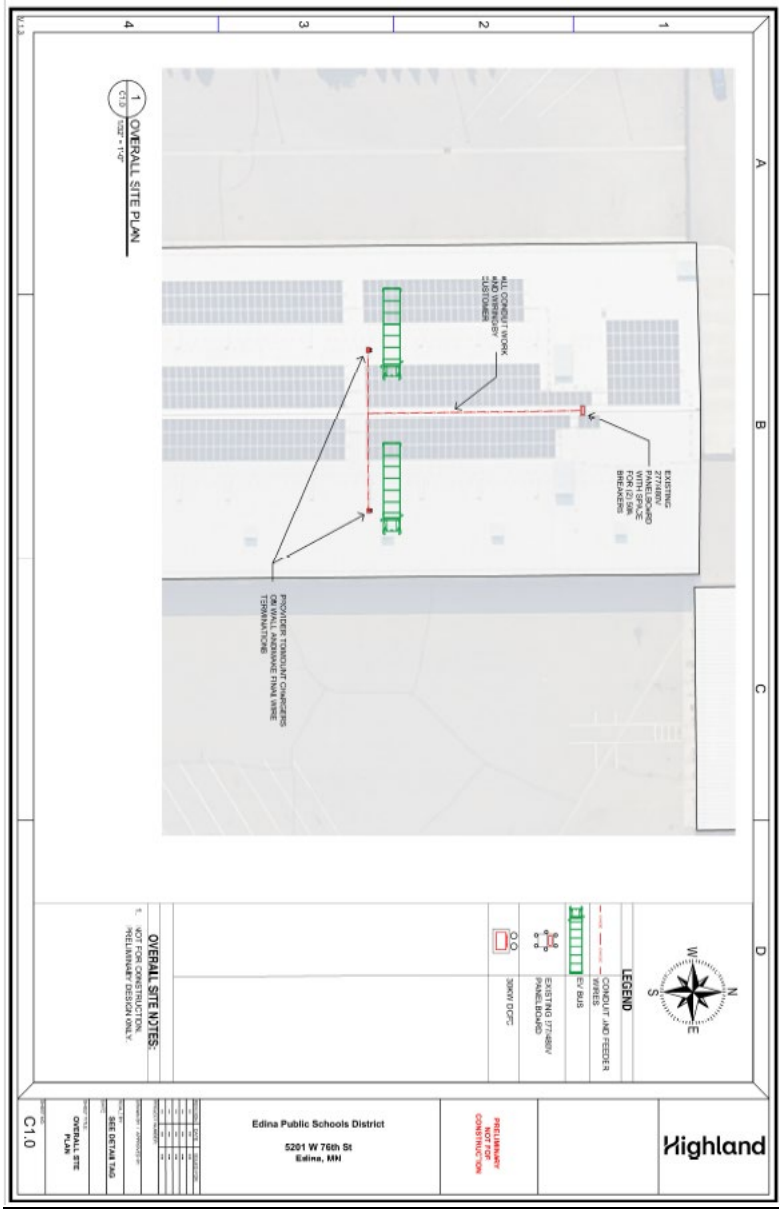
(b) Inspection and change or replacement, as needed or otherwise indicated below, of each of the following:
- (i) Air compressor oil separator and main seal
- (ii) Coolant system maintenance, fluid change
- (iii) Electric Transmission Fluid Change
- (iv) Power steering fluid all C2
- (v) Power steering filter all C2
- (vi) Battery Pack Desiccant (replacement)
- (vii) Rear end fluid (change)
- (viii) Air Drier
- (ix) AC Filters
- (x) Air compressor filter LG (replacement)
- (xi) Air compressor filter SM (replacement)
- (xii) Power steering Motor Lube
- (xiii) Vehicle consumables (such as wiper blades, light bulbs, and similar), other than Vehicle tires

(c) Such other annual, semi-annual, quarterly, monthly, or other, periodic Vehicle work required under Prudent Vehicle Practices (defined in the Terms and Conditions).

As of the Operational Date and from time to time during the Term thereafter, Provider may deliver written notice to Customer to revise the work included as part of Annual Vehicle Work to the extent necessary to conform to Vehicle OEM requirements.

<<<End of Part 1, Exhibit 1A>>>

Exhibit 1B of Part 1
Preliminary System Site Plan



<<<End of Part 1, Exhibit 1B>>>

Exhibit 1C of Part 1
Incentive Compliance

1. Customer will assure that during the Term, each Vehicle will be used exclusively to provide pupil transportation and related transportation services to a public school.

2. Customer will assure that, from the Operational Date through at least the fifth (5th) anniversary of the Operational Date, each Vehicle will be used exclusively to serve **Edina Public Schools**.

3. During the Term, Customer will assure that each Vehicle will be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school.

4. Customer and Provider acknowledge and agree that **Edina Public Schools** was the school district listed on the application for the EPA CSB Incentive.

5. Customer and Provider agree that, upon the request of the Environmental Protection Agency (the "**EPA**"), the Vehicles will be made available for inspection by the EPA or its authorized representatives during the Term through the fifth (5th) anniversary of the Operational Date.

6. On or before December 31, 2026, Customer will scrap, sell, or donate, or cause to be scrapped, sold, or donated, at least **Two (2) Type C** fully operational diesel school buses with a gross vehicle weight rating of 10,001 pounds or more or other EPA-qualified, scrappage-eligible vehicle (each a "**Replaced Vehicle**"), in accordance with the EPA guidelines and requirements for eligible existing school buses under the EPA CSB Incentive program, and will provide evidence of the scrapped, sold, or donated Replaced Vehicles to the Provider for further provision to the EPA in the manner and in the timeframe required pursuant to the EPA CSB Incentive program. Unless a scrappage waiver has been approved prior to the start of the project, Customer will provide to Provider such additional evidence for each Replaced Vehicle as may be requested by Provider, including use and operation log establishing vehicle eligibility as well as a signed scrappage statement. The Parties acknowledge that the EPA CSB Incentive cannot be used to replace vehicles that do not meet the EPA CSB Incentive eligibility criteria.

7. On or before December 31, 2026, Customer will provide all information reasonably requested by Provider to complete, and Provider will complete and submit to the EPA, the 'Close Out Form' required under the EPA CSB Incentive program with respect to the Vehicles and the Replaced Vehicles.

8. As soon as practicable, but, in any event, within sixty (60) days after the Operational Date, Customer will provide to Provider each of the following, to the extent in Customer's possession or under Customer's control: (a) copies of invoices and proofs of delivery for the Vehicles and other components of the System that are 'eligible infrastructure' funded by the EPA CSB Incentive; and (b) one photo of the exterior of each Vehicle labeled with the last four (4) digits of the Vehicle Vendor Identification Number (VIN); and (c) and one photo of each charging pedestal that is part of the charging infrastructure funded by the EPA CSB Incentive.

9. **Audit Requirements.** In accordance with 2 CFR § 200.501(a), each Party agrees to obtain a single audit from an independent auditor, if their organization expends $750,000 or more in total Federal funds in their fiscal year for that year. Because of this audit requirement, documentary support for expenditures on behalf of beneficiaries is required. To the extent a Party is required under this provision to obtain an audit and requires information from the other Party to complete such audit, the other Party shall provide information and shall take such actions as reasonably requested by the Party undertaking the audit. Additionally, each Party acknowledges that the EPA will conduct random reviews of grant recipients to protect against waste, fraud, and abuse. As part of this process, the EPA, or its authorized representatives, may request copies of grant documents from the Parties to verify statements made on the EPA CSB Incentive application and reporting documents. The Parties acknowledge that they may be selected for advanced monitoring, including a potential site visit to confirm project details. The EPA, or its authorized representatives, may also conduct site visits to confirm documentation is on hand and that replacement buses are still in service for Customer, as well as confirm applicable infrastructure adheres to Buy America, Build America requirements (see below). The Parties agree to comply with site visits requests and

recordkeeping requirements and agree to supply the EPA with any requested documents three (3) years from the date of the final expenditure report, or risk cancellation of the EPA CSB Incentive or other enforcement action.

10. **Access to Records.** In accordance with 2 CFR § 200.337, the EPA and the EPA Office of Inspector General (the "**EPA OIG**") have the right to access any documents, papers, or other records, including electronic records, of the Parties which are pertinent to the EPA CSB Incentive in order to make audits, examinations, excerpts, and transcripts. This right of access also includes timely and reasonable access to the Parties' personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as the records are retained.

11. **Record Retention.** In accordance with 2 CFR § 200.334, each Party must keep all financial records, supporting documents, accounting books and other evidence of activities related to the EPA CSB Incentive for three (3) years from the submission of the final expenditure report. If any litigation, claim, or audit is started before the expiration of the three (3) year period, each Party must maintain all appropriate records until these actions are completed and all issues resolved.

12. **Whistleblower Protections.** This Agreement is subject is to whistleblower protections, including the protections established at 41 U.S.C. § 4712 providing that an employee of either Party may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a covered person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal grant or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal grant or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal grant or subaward. These covered persons or bodies include: (1) a member of Congress or representative of a committee of Congress; (2) an Inspector General; (3) the Government Accountability Office; (4) a Federal employee responsible for contract or grant oversight or management at the relevant agency; (5) an authorized official of the Department of Justice or other law enforcement agency; (6) a court of grand jury; and (7) a management official or other employee of the contractor, subcontractor or grantee who has the responsibility to investigate, discover, or address misconduct.

13. **Build America, Buy America.** Each Party is subject to the Buy America Sourcing requirements under the Build America, Buy America provisions of the Infrastructure Investment and Jobs Act ("**IIJA**") (P.L. 117-58, §§70911-70917) when EPA CSB Incentive funds are used for the purchase of goods, products, and materials for the types of infrastructure projects contemplated by this Agreement and specified under the EPA program and activities specified in the chart, "Environmental Protection Agency's Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America Buy America Provisions of the Infrastructure Investment and Jobs Act." The Buy America preference requirement applies to all the iron and steel, manufactured products, and construction materials used for all infrastructure projects funded by the EPA CSB Incentive under this Agreement. This includes, but is not limited to, electric bus charging infrastructure, battery energy storage systems, or renewable on-site power generation systems that power the buses and equipment, as well as any other permanent public structure that meets the infrastructure definition in Office of Management and Budget's Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure. ZE or clean school buses funded by the EPA CSB Incentive are not considered infrastructure for purposes of the Buy America preference requirement. While the Parties are encouraged to consider the purchase of domestically produced buses when possible, the EPA does not endorse or otherwise prefer any specific brand of ZE or clean school buses. Each Party acknowledges and agrees that no part of the EPA CSB Incentive may be used for a project of infrastructure unless all iron and steel, manufactured products, and construction materials that are consumed in, incorporated into, or affixed to an infrastructure project are produced in the United States, and the cost of the components of manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product. The Buy America preference requirement applies to an entire infrastructure project, even if it is funded by both Federal and non-Federal funds. Each Party must implement these requirements in its procurements with respect to this Agreement, and these requirements must flow down to all subcontracts at any tier. (See the EPA's Build America, Buy America website and the Office of Management and Budget's Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.) When supported by rationale provided in IIJA § 70914, either Party may submit a waiver request in writing to the EPA. The EPA may waive the application of the Buy America Preference when it has determined that one of the following exceptions applies: (1) applying the Buy America Preference would be inconsistent with the public interest; (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products,

or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. For legal definitions and sourcing requirements, the Parties agree to consult EPA's Build America, Buy America website.

14. **Cooperation with Reporting Requirement**. Customer agrees to use its best efforts to cooperate with Provider in its completion of quarterly progress reports, workplan modification reports, and other reports required to be submitted to the EPA. Such cooperation includes but is not limited to Customer's retention and timely provision of documents related to this Agreement, timely and reasonable access to Customer's personnel for the purpose of interview and discussion related to such documents, tracking of project progress as requested by Provider, reporting to Provider any deviations from budget or project scope or objective (including additions, deletions, or changes the schedule, budget, or workplan), and responding in a timely manner to other inquiries by Provider as necessary for the completion of quarterly progress reports.

15. **Use of Submitted Information.** Applications and reporting materials submitted in relation to the EPA CSB Incentive may be released in part or in whole in response to a Freedom of Information Act ("**FOIA**") request. The EPA recommends that applications and reporting materials not include trade secrets or commercial or financial information that is confidential or privileged, or sensitive information that, if disclosed, would invade another individual's personal privacy (e.g. an individual's salary, personal email addresses, etc.). However, if such information is included, it will be treated in accordance with 40 CFR § 2.203 (see EPA clause IV.a, Confidential Business Information, under EPA Solicitation Clauses). The EPA will use information submitted by the Parties in its annual report to Congress that is due no later than January 31 of each year of the EPA CSB Incentive program. Pursuant to the EPA CSB Incentive program's statute, the report will include: (a) the total number of applications received; (b) the quantity and amount of grants and rebates awarded and the location of the recipients of the grants and rebates; (c) the criteria used to select the recipients; and (d) any other information the EPA considers appropriate. The EPA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, for federal purposes, submitted bus photos, including use in program materials.

16. **Training**. For any training for Customer personnel and agents conducted by or for Provider as part of the Training Services or as otherwise required under this Agreement, Provider may provide reasonable light refreshments or light meals and Highland®- branded items to assure engaged attendance in the trainings by all participants; provided that the foregoing shall comply with applicable Customer policies and applicable law.

<<<End of Part 1, Exhibit 1C>>>

Part 2
Terms and Conditions

1. **Interpretation; Relation to Scope of Services**. These Terms and Conditions and related exhibits and attachments ("**Terms and Conditions**") are incorporated into and made part of the Transportation Equipment Services Agreement to which these Terms and Conditions are attached as a Part. Such Transportation Equipment Services Agreement, these Terms and Conditions, and all other Parts, Exhibits, and Schedules thereto and hereto form the "**Agreement**" between Customer and Provider. Capitalized words used but not defined in these Terms and Conditions have the meanings assigned to them elsewhere in the Agreement.

2. **Contract Price; Performance Related Adjustments; Invoicing**.

   a. Contract Price. In consideration of the Services, Customer will pay Provider the "**Contract Price**", which means the Base Service Fee, plus any Excess Mileage Fees and Time of Use Fees, net of Vehicle Repair reimbursements, any Downtime Credits, and any Availability Credits, and which shall be payable as set forth below.

      i. *Base Service Fee*. The Base Service Fee will be payable on a per-Vehicle basis annually, in advance, with the first installment of the Base Service Fee due on the Operational Date for the first Contract Year, and all subsequent installments due and payable on the first day of each Contract Year thereafter. Provider will invoice Customer for the annual, aggregate Base Service Fee in advance of the due date, except that the first Base Service Fee payment will be invoiced on or after the Operational Date. The Base Service Fee will be subject to increase each Contract Year after the first Contract Year at a rate equal to the Annual Escalator (defined in the Scope of Services), subject to adjustment as provided in **Section 5**. The aggregate Base Service Fee for a Contract Year means the Base Service Fee applicable for that Contract Year multiplied by the number of Vehicles based on which Services are provided during that Contract Year.

      ii. *Performance Related Fees and Credits*. Excess Mileage Fees and Availability Credits shall be paid or credited annually; and Time of Use Fees and Downtime Credits shall be paid or credited monthly. Provider will invoice Customer for all Excess Mileage Fees, Time of Use Fees, Downtime Credits, and Availability Credits at least annually following the Contract Year as to which such fees or credits accrue; however, in Provider's discretion, Provider alternatively may invoice Customer for Time of Use Fees and Downtime Credits on a monthly, quarterly, or annual basis instead. The amount of the Time of Use Fees and the Excess Mileage Fees will increase by the Annual Escalator as of the first day of each Contract Year after the first Contract Year.

      iii. *Maintenance Reimbursement and Credits*. Maintenance reimbursements and credits shall accrue and be invoiced as Customer incurs and reports expenses for Repair Work consistent with this Agreement. The maintenance reimbursement process is further described below.

   b. Performance Related Price Adjustments. The Scope of Services and **Section 3** identify and define Availability Credits and Downtime Credits that, once accrued, will result in related adjustments to the Contract Price, subject to a cap on the total amount of Availability Credits and Downtime Credits that can accrue in any Contact Year equal to 10% of the aggregate Base Service Fee paid for such Contract Year. The Contract Price also will be adjusted in respect of reimbursements for Repair Work in accordance with **Section 10.** In addition, the Contract Price will be adjusted as follows:

      i. *Excess Mileage Fees*. For each mile that Customer operates a Vehicle in any Contract Year in excess of the Annual Mileage Allowance for that Vehicle, Customer shall pay to Provider an amount equal to the Excess Mileage Fee multiplied by the number of miles in excess of the Annual Mileage Allowance.

      ii. *Time of Use Fees*. For any hour that a Vehicle is not plugged into the Chargers, excluding any hour that is (A) during the Vehicle Operating Period, (B) during a required Repair Work period, or (C) otherwise approved by, or caused by the actions of, Provider (e.g., Provider causes Vehicle to be relocated to provide emergency grid services), Time of Use Fees shall accrue and will be payable by Customer to Provider.

   c. Invoices and Payment Terms. Annual and monthly invoices shall be provided by Provider to Customer in accordance with this Section. All amounts due under this Agreement are due and payable within thirty (30) days following receipt of invoice. All payments shall be made in U.S. dollars.

3. **Performance Assurances**.
   a. Charger Uptime Guarantee. Provider guarantees that, in each Contract Year, the Chargers will be "Available" (defined below) for charging, measured annually (the "**Charger Uptime Guarantee**"). The Chargers will be deemed "**Available**" in any Contract Year if the number of charger ports on such Chargers equal to the number of Vehicles in the System are capable of charging the Vehicles 24 hours a day, each day in such Contract Year in a manner materially consistent with the specifications of the applicable Charger to which each such charging port is attached, including factors such as duration and power quality; *provided that*, a charger port shall be deemed "**Available**" during any period such charging port is not operating due to a Permitted Exclusion (defined below) and during any period Provider makes an operational Redundant Port (defined below) available at the Premises instead of such charging port. Any charging ports that are part of the System in excess of the number of Vehicles included in the System are referred to as "**Redundant Ports**" and may be substituted for a charging port that may not be available for charging for purposes of compliance with the Charger Uptime Guarantee. Provider shall use reasonable efforts to designate charging ports as "in service" and "out of service" if Redundant Ports are used as substitutes; and Customer shall use reasonable efforts to assure that each Vehicle is plugged into an in-service Charger port when the Vehicle is not being driven. "**Permitted Exclusions**" means (i) grid outages, blackouts, telecommunications or Internet outage or unavailability, and similar events, (ii) Customer acts or omissions (including Customer failure to properly plug a Vehicle into an in-service Charger port, facility or parking area construction requiring shut off, Vehicle accidents, theft, or vandalism, failure to provide reasonable access to Vehicles), (iii) Force Majeure Events (defined below); and (iv) scheduled preventive maintenance and testing (not to exceed 40 hours per Contract Year). As of the last day of each Contract Year in which the Charger Uptime Guarantee is not satisfied, an Availability Credit, calculated in accordance with the Scope of Services, will accrue for the benefit of the Customer and will be applied to reduce future Contract Price payments otherwise due from Customer in accordance with the Terms and Conditions.

   b. Route Readiness Guarantee. Provider guarantees that each Vehicle will be charged sufficiently for its regular Designated Route at the start of each posted school day in the Vehicle Operation Period, subject to the Permitted Exclusions (the "**Route Readiness Guarantee**"). The Route Readiness Guarantee ensures that the entire System (including Infrastructure, Chargers, and Vehicles) and the Platform are functioning effectively, and each of these is interoperable with the others to support Vehicle charging. Vehicle inoperability due to maintenance and repair, including due to manufacturer recall or non-routine maintenance (unless caused by Provider's act or omission) is excluded from the Route Readiness Guarantee so long as Provider is in compliance with its Service Promise, described below. Customer shall provide written notice of noncompliance with the Route Readiness Guarantee to Provider and, if the matter is not resolved within 72-hours of such notice, a Downtime Credit, calculated in accordance with the Scope of Services, will accrue for the benefit of the Customer and will be applied to reduce future Contract Price payments otherwise due from Customer in accordance with the Terms and Conditions.

   c. Service Promise. Provider shall meet the following service-level obligations: (i) for each identified issue with the System submitted by Customer through agreed communication channels, provide a remote response within 30 minutes of receipt during business hours (9:00 am to 5:00 pm local time) on any business day, with calls made after the end of a business day receiving a response on the next business day), (ii) manage and oversee enforcement of Vehicle manufacturer and dealer warranties and work with Customer to coordinate Vehicle repairs, including implementing reporting and other processes with Customer to support timely repairs (including weekly status reports where applicable for major repairs), and (iii) implement periodic (at least semi-annual) Customer surveys and System operations reviews ("**Service Promise**").

4. **Conditions Precedent; Contract Price Exclusions**.
   a. Conditions Precedent. If any Condition Precedent (defined below) is not timely satisfied, then upon the request of the Provider delivered within sixty (60) days after the failure of such Condition Precedent, then, for thirty (30) days following written notice from Provider the Parties shall attempt to negotiate an adjustment to the Base Service Fee applicable as of the Operational Date. If after such thirty (30) day negotiation period, either Party that participates in such negotiations in good faith may terminate this Agreement by providing ten (10) days' prior written notice to the other Party, provided that this Agreement shall not terminate if, prior to the expiration of such 10-day period, the Provider withdraws its negotiation request in writing. Neither Party shall be liable for any damages in connection with such termination. Prior to the Operational Date, the following conditions (each a "**Condition Precedent**") shall be satisfied:

i. The Interconnection Cost (defined below) shall not exceed the Interconnection Limit detailed in the Scope of Services;
ii. Each Approval (defined below) shall have been secured for the System, on a timely basis and without any condition or requirement that a change should be made to the System or the System Site Plan attached as **Exhibit 1B**;
iii. All applicable Existing Incentives for the System shall have been timely secured and received by Provider;
iv. Unforeseeable sitework at the Premises shall not be required to complete the Installation Services; and
v. Customer has not provided inaccurate or incomplete information concerning the Premises or made requests for changes to the System or the location of the System or related facilities on the Premises that, in either case, increase the cost to Provider to perform Installation Services or extend the schedule for performance of Installation Services.

b. Definitions. The "**Interconnection Cost**" means the total cost payable by Provider, after any make-ready or similar interconnection-related Existing Incentive, to connect the System to an on-Premises connection point and to interconnect from that point to the local electric utility system, including fees and reimbursements payable to the local electric utility, and the cost of electrical equipment, materials, and labor. An "**Approval**" means each permit, license, approval, authorization, service agreement, or similar permission or agreement from a Governmental Authority (defined below) or utility that is required pursuant to applicable law, applicable code (including building, electrical, or similar), or in the reasonable judgment of the Provider to install, interconnect, start-up, or operate the System at the Premises. A "**Governmental Authority**" means a federal, state, or local government authority, agency, department, commission, board, instrumentality, official, court, or tribunal that has jurisdiction over the relevant subject matter.

c. Contract Price Exclusions. Unless otherwise identified in the Scope of Services, the Contract Price excludes the following:

i. Performance bond or other surety;
ii. Prevailing wage rates with respect to provision of the Services;
iii. Work at the Premises (asphalt repair, landscaping, lighting, species management) beyond the work contemplated by the System Site Plan, as a condition to an Approval or otherwise;
iv. Work at the Premises that is outside of the scope of the System Site Plan (e.g., installation of an information kiosk);
v. Exclusions identified in the Vehicle Specifications in **Exhibit 1A** or the System specifications in **Exhibit 1B** to the Scope of Services.

5. **Taxes; Hyperinflation**.

a. Taxes.

i. *Customer's Taxes*. Customer is responsible for (1) any real property taxes on the Premises or Customer's property thereon; and (2) personal property or excise taxes on the Vehicles; and (3) state or local sales, use, or similar taxes (collectively, "**Sales Taxes**"), if any, imposed with respect to the provision of any Services (including any Services relating to provision of any System component) (collectively, "**Customer Taxes**").
ii. *Provider's Taxes***.** Provider is responsible for any income taxes or similar taxes imposed on Provider's receipt of income with respect to any Contract Price payment under this Agreement ("**Provider's Taxes**") and, if required by applicable law, for collection from Customer and remittance to the applicable taxing authority of Sales Taxes payable with respect to the Services under this Agreement.
iii. *Tax Cooperation*. Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize the taxes, including Sales Taxes, payable by the Parties.

b. Hyperinflation. If general inflation for any Contract Year, as measured by the 12-month change in the Consumer Price Index for the nearest metropolitan region to Customer's location, exceeds 6%, then the Annual Escalator for the next Contract Year shall be increased in accordance with the following formula:

$$EI\ (\%) = (CPI\text{-}CY(\%) - [6]\%)$$

EI (%): Percentage Increase in Annual Escalator applied to succeeding Contract Year
CPI-CY (%): Actual CPI (nearest metro) change over Contract Year or nearest possible measurement period

6. System and Platform; Future Electrification.

a. System Specifications and Warranties. The System and related specifications (or preliminary specifications) for the Vehicles and Chargers are set forth in the Scope of Services. No later than sixty (60) days after the Provider issues a purchase order for Vehicles or Chargers, Provider will provide to Customer the final dealer/manufacturer issued specifications and a copy of any applicable warranty (each, an "**OEM Warranty**"). Unless otherwise identified in the Scope of Services, the major System components provided by Provider will be new and unused as of the applicable Operational Date. Each Charger will be manufactured by a Provider pre-qualified manufacturer, will have the operating functionality and capacity to perform the Services, and will conform to the specifications therefor set forth on the preliminary System Site Plan, subject to **Section 6(b)**.

b. Change to System. The System specifications may be updated by written agreement of Provider and Customer prior to the purchase of Vehicles. Prior to the Operational Date, with Customer's prior consent, which consent shall not be unreasonably withheld or delayed, Provider may determine to deploy and may procure, install, and ready for deployment chargers and infrastructure, other than the Chargers and Infrastructure included on the preliminary System Site Plan. Customer shall not withhold its consent pursuant to the preceding sentence to the extent (i) Provider demonstrates functional equivalency between initially specified Chargers or Infrastructure and the replacement chargers or infrastructure; (ii) the replacement chargers or infrastructure are required by the local utility or applicable law, or (iii) the replacement chargers and infrastructure are required pursuant to the terms of any Existing Incentive or other Incentive. Once Customer consent is secured consistent with the previous sentence, the replacement chargers or infrastructure will be Chargers or Infrastructure under this Agreement. If, after the Operational Date, Provider determines that any Vehicles, Chargers, or Infrastructure are not performing to expectations, Provider reserves the right to swap such Vehicles, Chargers, or Infrastructure with replacement equipment of similar specifications.

c. Platform License; Intellectual Property.

i. *Intellectual Property*. As between Provider and Customer, Provider retains and reserves all right, title, and interest in and to the Platform. No rights are granted to Customer in the Platform hereunder except as expressly set forth in this Agreement.

ii. *Grant of License in Platform*. Provider hereby grants to Customer a royalty-free, non-assignable, non-transferable, and non-exclusive license for Customer's personnel, commencing the Operational Date and for the balance the Term, to access and use the Platform as made available by Provider to Customer solely to the extent necessary for Customer to access, use, and receive the Services and perform its transportation operations as permitted herein.

iii. *Data.* Data regarding the operational state of and performance of System and Vehicle use shall be the property of Provider. However, data specific to any Vehicle may only be published by Provider on an anonymized basis. Data regarding use of any Vehicle shall be made available to Customer, and is hereby licensed to, Customer to on a non-exclusive, worldwide, royalty-free basis, and may be used by Customer in connection with its transportation services.

iv. *Use Limitations*. Customer shall not, and shall not permit any users accessing the Platform by, for, or through, Customer to: (i) copy, modify, or create derivative works of the Platform; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Platform; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component or source code or algorithms of the Platform; (iv) circumvent security measures in the Platform; or (v) remove any proprietary notices from the Platform.

d. Provider Use of System. Customer acknowledges that Provider has the right to operate the System outside of the Vehicle Operating Period and that such rights support Provider's ability to offer the Services at a reasonable price to Customer by generating third party revenues, tax benefits, and savings for Provider. Subject in all cases to its obligations to provide the Services to Customer, Provider may use the System to, among other things, provide services to third parties as described below. Except as set forth below or in any subsequent agreement between Provider and Customer concerning third-party services, all expenses, profits, risks, and liabilities associated with such activities shall be borne entirely by Provider, including but not limited risk of damage and degradation to the System and associated insurance and operational costs.

i. *Grid Services*. Outside of the Vehicle Operating Period, Provider may use the Vehicles to participate in utility demand response and vehicle-to-grid dispatch programs, ISO-level frequency regulation and other wholesale

market dispatch, and grid services activities, at its sole discretion ("**Grid Services**"). Provider may disconnect and relocate a Vehicle to permit the charging of another vehicle or to transport the Vehicle to provide grid services at a location other than the Premises (subject to all applicable regulations, including driver licensure and Vehicle signage); provided, however, that if Provider moves a Vehicle to participate in such activities, Provider shall provide prior notice to Customer and any Vehicle mileage due to such activities shall not apply for purposes of calculating the Annual Mileage Allowance.

ii. *Highland Network Charging*. Customer may elect to participate in a municipal or regional charger sharing program operated by Provider and its affiliates that makes available chargers owned or otherwise available to by Provider and its affiliates for charging vehicles utilized by or for Governmental Authorities, including school districts, located in the municipality or region. By electing to participate in such a program, Customer would agree to make certain Chargers and parking bays available to other network participants upon prior notice and, likewise, could utilize the chargers of other network participants.

iii. *Use of Chargers During VOP*. Subject to the establishment of mutually agreeable terms, including operating parameters, signage, and pricing arrangements, during the Term and during the Vehicle Operating Period only, Customer may use the Chargers to charge electric vehicles, other than the Vehicles.

iv. *Air Quality Analysis*. Provider may, with prior written permission of Customer, install one or more air quality monitor systems on the Vehicles (or on other Provider owned or controlled property or equipment) to gather air quality data within the Vehicle service area. Upon request of Customer, Provider shall make summary reports of such gathered data available to Customer at no cost to Customer.

v. *Use of Platform*. Throughout the Term, the Provider shall have access to the Platform and, without limitation, will use the Platform to access and analyze Vehicle and Charger operational data, Vehicle state of charge, faults, maintenance status, Vehicle location (GPS), Vehicle speed, and Charger electricity use.

e. Future Fleet Electrifications.

i. *Application for Incentives.* For the System under this Agreement, and to enable and support any future Fleet Electrification (defined below), during the Term, Customer will apply for, or will partner with Provider to apply for, and will use reasonable efforts to secure, any Incentive (defined below) available to support any Fleet Electrification or any Vehicles or System under this Agreement, consistent with the applicable Incentive terms and any Requirements (defined below). With respect to any application for any such future Incentive, (a) the applicant Party will provide a copy of the final application to the other Party; (b) consistent with the application requirements, Provider will be included or referred to as Customer's electrification provider or similar designation with respect to such applications or participation; and (c) the Parties will promptly disclose to each other all correspondence, communications, and awards with respect to any Incentive application pursuant to this **Section 6(e).** Neither Party will have any liability to the other for failure to secure an award or payment of any future Incentive, except in the event of such Party's gross negligence or willful misconduct.

ii. *Customer Notice.* During the Term and prior to undertaking any Fleet Electrification, Customer will deliver written notice to Provider of Customer's determination to proceed with any Fleet Electrification, and, following delivery of such notice, Customer will afford Provider a reasonable opportunity to participate in any competitive solicitation or other contracting process undertaken by Customer with respect to such Fleet Electrification so long as Provider is not a Defaulting Party (defined below).

iii. *Customer Procurement Process.* The Customer is free to choose any method of acquisition and implementation of any Fleet Electrification, including but not limited to a competitive procurement process, cooperative procurement process, or single or sole source procurement process, consistent with applicable Requirements. The performance of this Agreement, including the Incentive applications and facilitation of Incentive applications by Provider and the compliance of the Customer with this Section as to any Fleet Electrification will not bar Provider (or any Provider affiliate) from becoming the provider to the Customer of such Fleet Electrification, including but not limited to Provider competing or participating in any Customer procurement process to select a provider for such Fleet Electrification. Further, to the extent the performance of this Agreement by Provider or any compliance or performance by Customer under this Agreement would violate

any Requirement or bar Provider from competing or participating in any Customer process to select a provider for any Fleet Electrification, such performance by Provider or such compliance or performance by Customer hereby is waived and excused by the other Party.

iv. *Fleet Electrification.* A "**Fleet Electrification"** means any project or undertaking, in addition to the deployment of the System and license of the Platform underlying the Services contemplated by this Agreement, that: (i) will result in the replacement of any of Customer's fleet from non-electric vehicles to electric vehicles, (ii) will result in the addition of any electric vehicle to Customer's fleet, or (iii) will revise, upgrade, or enhance the charging or vehicle management systems of Customer. A Fleet Electrification may include, without limitation, procurement or provision of electric vehicles for transportation, installation of charging stations or vehicle charging system(s), or procurement of internet-based or other software applications to manage Customer's electric vehicles.

v. *Requirement.* As used in this Section, a "**Requirement**" means: (i) applicable law, (ii) any requirement, compliance with which is a condition to securing any available Incentive for the applicable Fleet Electrification, or (iii) a requirement imposed by a Governmental Authority or other entity or association having jurisdiction over Customer that must be complied with to enable Customer to secure funding for, or to enable either Party to secure a required Approval for, a proposed Fleet Electrification. Without limitation, "Requirement" includes the provisions of any trade agreement or treaty that is applicable to Customer.

7. Operational Date; Extension Terms.

a. Operational Date Certificate. When Provider determines the Operational Date for the System has been achieved, Provider will deliver to Customer a certificate in the form of **Exhibit 2A**. Customer will timely acknowledge and return to Provider the certificate, unless Customer can establish that the System is not substantially delivered, installed, and operational at the Premises as of the Operational Date set forth in such certificate. Such certificate in the form of **Exhibit 2A**, as executed by Provider and Customer, is referred to as the "**Certificate of Commercial Operation**." The "**Operational Date**" for the System is the date specified in the agreed Certificate of Commercial Operation. Subject to permitted extensions under **Section 7(b)**, Provider shall achieve the Operational Date for the System on or before the Anticipated Operational Date set forth in the Scope of Services. Provider may provide Customer access to and use of portions of the System (Vehicle(s) and Chargers sufficient to charge the Vehicles) before or after the agreed Operational Date, in rolling format, and, in such case, the Parties may agree on, and reflect in the Certificate of Commercial Operation, an Operational Date for the System that is the date many but not all System elements are first operational.

b. Extension of Anticipated Operational Date. If the Operational Date for the System is delayed beyond the Anticipated Operational Date due to a Force Majeure Event (defined below), a delay by the local utility in providing utility service or interconnection for the System (including a delay in completing utility interconnection work), a delay caused by unexpected site conditions at the Premises, a delay due to Customer-requested changes to the System Site Plan, a delay in award or payment of any Existing Incentive, a delay in securing any required Approval, or a delay caused by the vendor or OEM of any major component of the System to be provided, the Anticipated Operational Date and the time for achievement of the Operational Date for the System will be automatically extended on a day-for-day basis for the period commencing the initial occurrence of such delay event through the end of such delay event, without liability of either Party to the other Party.

c. Termination for Delay in Operational Date Achievement. If the Operational Date for the System has not occurred within at least one hundred eighty (180) days after the Anticipated Operational Date, as extended pursuant to **Section 7(b)**, either Party may terminate this Agreement by providing thirty (30) days' prior written notice to the other Party; provided, that such termination shall be revoked if the Operational Date for the System occurs on or before the end of such thirty (30) day notice period.

d. Extension Term(s). Not less than twelve (12) months prior to the end of the Initial Term, Customer may, by written notice to Provider, request to extend the Term for the Extension Term on the same terms and conditions; provided, however, that if the Contract Price is uneconomic for Provider with respect to the Extension Term, then Provider may provide a written notice to Customer prior to the commencement of the Extension Term. Upon delivery of such notice by Provider, the Parties shall negotiate an adjusted Contract Price that provides significant value to Customer while preserving for Provider a reasonable profit margin. If no notice is provided, or the Parties are unable to agree to an

adjusted Contract Price by the commencement of the noticed Extension Term, then this Agreement shall expire on the last day of the Initial Term.

e. Multiple Operational Dates. This provision applies to the extent that this Agreement contemplates the deployment of more than one (1) Vehicle.

i. *Anticipated Operational Date.* If the Vehicles covered by the Agreement are delivered to the Premises on different dates through no fault of Provider, then each Vehicle may be assigned a different Operational Date based on the date of delivery of such Vehicle to the Premises so long as the System, excluding the Vehicles, is substantially installed, operational, and capable of charging the Vehicle or Vehicles for which Certificate of Commercial Operation is presented by Provider. Provider's obligation to achieve the Operational Date on or before the Anticipated Operational Date shall be deemed satisfied so long as the Operational Date for one Vehicle is achieved on or before the Anticipated Operational Date, as the same may be extended.

ii. *Multiple Operational Dates.* If the Vehicles under this Agreement have different Operational Dates, then, the Initial Term, any Extension Term, and a Contract Year as to a Vehicle will commence on the Operational Date or the anniversary of the Operational Date for such Vehicle, and the provisions of the Agreement shall be deemed amended *mutatis mutandis* to accommodate a separate and distinct Operational Date for each Vehicle, without the need for a written, executed amendment to this Agreement. The Term of this Agreement shall continue until the last day of the last Initial Term or, if applicable, the last Extension Term for any Vehicle under this Agreement. If multiple Operational Dates are assigned to the Vehicles, the Parties may agree in writing to establish a single period as the Contract Year, Initial Term, or Extension Term, as applicable, for all Vehicles, with such pro ration of the Base Service Fee and other adjustments as necessary to give effect such period alignment.

8. Incentives

a. Incentives Generally. Except as may be provided in the Scope of Services, as owner of the System, Provider is entitled to the benefit of, and will retain all ownership interests in Tax Attributes (defined below) and Incentives, including Existing Incentives and Future Incentives (defined below). Subject to any Incentive allocation in the Scope of Services, Customer shall (i) cooperate with Provider in obtaining, securing, and transferring to Provider or its designee any and all Incentives, (ii) not make any filing or statements inconsistent with Provider's ownership interests in the Incentives or Tax Attributes, and (iii) immediately pay or deliver to Provider any Incentives or Tax Attributes that are, directly or indirectly, paid to, delivered to, or otherwise realized by Customer. The following capitalized terms shall have the meanings set forth below:

i. An "**Incentive**" means (i) a payment (such as a rebate or grant, but excluding any "make ready" funding") paid by a utility, regional grid operator, or governmental authority based in whole or in part on the cost, size, or operation of the System or any portion thereof, (ii) "make ready" or similar interconnection related funding, payment, or rebate provided by a utility with respect to the System or its interconnection or operation, and (iii) a performance-based credit or payment, based on the production, operation, or capacity of the System or any portion thereof; an "Incentive" includes any Existing Incentive.

ii. "**Tax Attributes**" means (i) any federal or state investment tax credit, production tax credit, or similar tax credit, grant, or benefit, including those credits (or direct pay benefits) under Section 30C and Section 45W of the federal tax code, or other tax benefits under federal, state, or local law with respect to the upfront costs or operation of the System, and (ii) depreciation including any bonus or accelerated depreciation with respect to the System.

iii. A "**Future Incentive**" means any Incentive (excluding Existing Incentives) that is not available as of the Effective Date and, as of the Effective Date, is not reasonably contemplated to be available by the Anticipated Operational Date.

b. Future Incentives. Throughout the Term, each of Provider and Customer will use commercially reasonable efforts to secure Future Incentives related to the System, and each will reasonably assist the other Party in such other Party's pursuit of such Future Incentives. However, neither Party will have any obligation under this Agreement to pursue any particular Future Incentive or to incur any out-of-pocket costs or expenses in connection therewith.

9. Vehicle and System Operation

a. Customer Vehicle Operating Parameters. Commencing the Operational Date for a Vehicle and throughout the balance

of the Term, Customer will:

i. operate the Vehicle only: (A) during the Vehicle Operation Period on Designated Routes (defined below) and for Planned Excursions**;** (B) as necessary to perform Repair Work; and (C) in accordance with Prudent Vehicle Practices;
ii. not directly or indirectly, modify, repair, move, or otherwise tamper with the Vehicle in any manner, except as necessary to perform Repair Work consistent with this Agreement;
iii. be responsible for (A) ensuring that appropriately trained Customer employees properly plug and unplug the Vehicles from the Chargers when not in use by Customer as permitted under this provision; and (B) restricting access of third parties, passengers, and other unauthorized personnel to the System, except as contemplated by this Agreement;
iv. at its own expense (subject to Provider reimbursement obligations for Vehicle Repair Work, including Annual Vehicle Work), keep each Vehicle properly registered and licensed in Customer's name;
v. at its own expense, keep each Vehicle insured in accordance with applicable law and this Agreement;
vi. ensure the Vehicle is driven only by properly licensed and trained personnel (each, a "**Driver**");
vii. be responsible for the safe loading, supervision, and transportation of passengers with respect to Vehicles;
viii. not operate the Vehicle outside of the Distance Limitation;
ix. use reasonable efforts, in collaboration with Provider, to support charge management, including moving a Vehicle to plug into an in service Charger port, including a Redundant Port;
x. not permit any person, except Drivers or authorized agents of Customer, to access or use the Chargers or Infrastructure, except as necessary to enable Customer to perform under this Agreement or except in the case of an emergency at the Premises;
xi. not transfer, sublease, or assign the Vehicle, or permit any person, except Drivers or authorized agents in connection with Repair Work, to drive the Vehicles; and
xii. operate the Vehicle outside the VOP, at Provider's expense, in accordance with the reasonable request of Provider.

Except for Customer's operation of a Vehicle in accordance with the above operating parameters, Provider shall have charge over, and control of, the Vehicles.

b. Designated Routes. Prior to the Anticipated Operational Date, Customer may consult with Provider about, and will deliver to Provider a written notice identifying, the regular, route and schedule for each Vehicle (each a "**Designated Route**") based on which Customer will operate the Vehicle during the Regular Operating Session, which Designated Route will be consistent with System specifications and the Vehicle operating requirements and restrictions in this Agreement. From time to time during the Term, Customer may revise the Designated Route for any Vehicle, so long as the revised Designated Route is consistent with the System specifications and the Vehicle operating requirements and restrictions in this Agreement; and Customer will notify Provider and may consult with Provider about any such change.

c. Planned Excursions. A "**Planned Excursion**" means operation of a Vehicle by Customer outside of the Regular Operating Session for such Vehicle (i) if the operation is a single trip out from and back to the Premises; (ii) if the trip is for transportation of passengers and Customer personnel related to extraordinary activities, (iii) so long as: (x) Customer provides Provider with at least forty-eight (48) hours' advance written notice of such planned Vehicle use, identifying total anticipated mileage, time of day, and day of week details, (y) the miles to be covered by the Vehicle for the trip plus the estimated mileage of the Vehicle attributable to the Regular Operating Sessions in the Contract Year in which the trip is to occur do not exceed the Vehicle's Annual Mileage Allowance; and (z) both the timing and mileage of the proposed trip allow for sufficient Vehicle charging before or following the Vehicle's Regular Operating Session that preceded the proposed trip.

d. Prudent Vehicle Practices. "**Prudent Vehicle Practices"** means those practices and processes in connection with Vehicle charging, operation, and repair that: (i) are consistent with both applicable heavy-duty vehicle school bus industry and electric vehicle industry best practices, (ii) comply with applicable OEM recommendations and OEM requirements, to the extent provided to Customer by Provider or the OEM, its dealer, or agent; (iii) conform to the requirements or guidelines necessary to preserve the efficacy or availability of any applicable OEM Warranty provided to Customer by Provider hereunder; and (iv) comply with all applicable federal, state, and local laws and requirements.

10. **Maintenance.**

a. System Maintenance Generally. Provider is responsible for all operation and maintenance, and related costs, for the Infrastructure and Chargers. Subject to Provider's reimbursement obligations for Repair Work, Customer is responsible for all inspection, maintenance, and repair of the Vehicles in accordance with this Agreement.

b. Vehicle Maintenance and Reimbursement.

i. *Reimbursable Repair Work*. Subject to Provider's obligations and rights with respect to Vehicle repairs, as provided in this Agreement, Customer shall perform or cause to be performed by a qualified third party, all inspections, maintenance, and repairs of each Vehicle consistent with the requirements of this Agreement ("**Repair Work**"). Customer shall self-perform all Repair Work, except those items which require specialized training or service at a third-party facility, such as for repairs to the battery and drivetrain systems. Repair Work shall be performed in accordance with applicable Prudent Vehicle Practices. For the avoidance of doubt, Customer assumes all responsibility for the operation of each Vehicle before, during and after any Repair Work for such Vehicle.

ii. *OEM Warranty*. If any OEM Warranty applies to or would cover any Repair Work subject to reimbursement under this Agreement, then to the extent necessary in Provider's discretion, Provider may enforce rights under the applicable OEM Warranty for the purpose of securing OEM coverage of the applicable Repair Work under such OEM Warranty. Provider shall have the sole right to pursue any claims under OEM Warranties and such other such warranties as may apply to the Vehicles. To the extent any Repair Work is covered by an OEM Warranty, Customer shall perform or shall cause to be performed, such Repair Work consistent with the requirements applicable to the relevant OEM Warranty.

iii. *Towing*. To the extent that, other than due to Customer-caused damage, as required by Prudent Vehicle Practices, any Vehicle must be towed to the Premises or to the location of a third-party Vehicle repair service provider, if the Customer is not capable (under Prudent Vehicle Practices) to perform the required repairs, then Provider shall pay for, or shall reimburse Customer for, the cost of such tow, subject to the Towing Cap. Customer shall be responsible for arranging and paying for any Vehicle tow required due to Customer-caused damage or due to Customer's failure to operate the Vehicle or any other System component as required by this Agreement.

iv. *Annual Vehicle Work*. Each Contract Year during the Term, as part of its obligation to perform Repair Work for Vehicles, Customer shall submit each Vehicle for Inspections (defined below) and shall perform such minor maintenance and repairs on such Vehicle as set forth on **Exhibit 1A** to the Scope of Services and as otherwise may be required to enable such Vehicle to successfully pass or satisfy all applicable Inspection criteria. "**Inspections**" means such inspections required by Prudent Vehicle Practices to maintain Vehicle operability. Any regular Vehicle maintenance and repairs required to satisfy inspection requirements shall be included in Annual Vehicle Work. Upon satisfactorily passing any Inspection, Customer will deliver to Provider documentary proof thereof.

v. *Standard Repair Time.* From time to time during the Term, Provider may deliver to Customer a written listing of standard repair times ("**SRT"**) for standard Repair Work based on OEM recommendations, Prudent Vehicle Practices, or Provider's demonstrated experience with such repairs, and Customer shall use reasonable efforts to perform Repair Work consistent with the applicable SRT.

vi. *Reporting.* No later than the fifteenth day of any calendar month after the Operational Date, Customer will deliver to Provider a written report, in form mutually agreed by Customer and Provider, detailing the Repair Work performed by or at the request of Customer for which Customer seeks reimbursement under this Agreement or for Customer-Caused Repairs (defined below), including the nature or cause of the Repair Work, the date(s) the Repair Work was performed, the number of labor hours expended on such Repair Work, the person(s) performing the Repair Work, the parts procured and used to perform the Repair Work, and the documented cost of such parts. The Customer agrees to provide Provider with access to maintenance records, labor time, and required parts receipts and specifications for each Vehicle and to collaborate with Provider with respect to the timing, location, and substance of Repair Work. Each Repair Work report provided by Customer shall include detail about Repair Work performed in the period agreed by Customer and Provider, which may be a trailing 90-day period, or such other period as agreed to enable capture of all relevant data, include OEM Warranty data.

vii. *Reimbursement.* Based on timely completion of monthly Repair Work reporting by Customer, Provider shall reimburse Customer for Repair Work and parts performed by, or paid for by, Customer consistent with this Agreement. Provider shall have no obligation to reimburse Customer for Customer-Caused Repairs or for labor hours for Repair Work in excess of the applicable SRT. Further, Provider may delay reimbursement

of any Repair Work until all relevant data, including OEM Warranty data and clarification as to whether the work covered by the report is a Customer-Caused Repair, is provided by Customer. To the extent an OEM pays for Repair Work, including parts, under an OEM Warranty, including through paying or reimbursing Customer for such Repair Work or by paying a third-party service provider for the Repair Work, then Provider shall have no obligation to reimburse the Customer for such Repair Work. Required reimbursement payments by Provider for parts shall be at the lowest of: the Customer's cost for the part, the applicable manufacturer suggested retail price for the part, or, the price for the part reasonably available from Provider or a Provider-designated supplier.

viii. *Adjustment.* No more than once per Contract Year a Party may request review of Repair Work and the applicable reimbursement rate under this Agreement. During the thirty (30)-day period following delivery of such a request by one Party to the other, Provider and Customer will engage in good faith review and negotiation of the applicable reimbursement rate in light of then applicable Prudent Vehicle Practices and industry standards for Vehicle Repair Work and may agree to adjust the reimbursement rate under this Agreement and, as applicable, the Contract Price to reflect any upward or downward adjustment to the reimbursement rate.

c. Vehicle Maintenance Consulting. As part of its Operations Services, and at no additional cost to Customer, Provider will support Customer's maintenance of the Vehicles as described below.

i. *Major Maintenance Consulting*. Prior to undertaking or arranging for major maintenance or repairs for a Vehicle, Customer shall provide reasonable notice to Provider of such proposed maintenance or repairs and the reason(s) therefor. Customer will confer with Provider regarding any anticipated service for major maintenance or repairs for a Vehicle.

ii. *Parts and Warranty Management Strategy*. Provider shall advise Customer regarding broader electric fleet management, maintenance, and repair strategy, and coordinate maintenance, repair, and related service escalations with Customer's third-party servicers, including by communicating with Customer regarding Vehicle condition, performance, and maintenance detection, evaluating part needs and recommending inventory stocking levels, and enforcing proper warranty claim work through dealer and Vehicle OEM communications, including direct communications with such third parties as an agent of Customer

iii. *Preventive Maintenance*. Provider may advise Customer to perform additional preventive maintenance on a Vehicle or adopt procedures under a comprehensive maintenance manual (which shall include existing OEM standards). If adopted, Provider shall be responsible for costs associated with such additional preventative maintenance as Repair Work hereunder.

iv. *Reliability and Mitigation of Service*. Provider will coordinate with Customer as needed to cause Vehicle Repair Work to be conducted in a manner to minimize any interruption in service to Customer, including by facilitating Vehicle Repair Work outside of the Vehicle Operating Period to the extent commercially practicable.

d. Maintenance of Chargers and Infrastructure. Provider shall be responsible for scheduling and coordination and cost of any maintenance of each component of any Charger, as recommended by the vendor and manufacturer of such component, and of related Infrastructure ("**Charger Maintenance and Repairs**"), as needed for the operation of the Chargers to provide Services; provided, that Provider shall use commercially reasonable efforts to (i) minimize any interruption in Services, and (ii) limit any suspension of Services due to Charger Maintenance and Repairs to non-VOP hours. Scheduled and unscheduled Charger Maintenance and Repairs shall be undertaken at Provider's sole cost and expense, except that Customer shall reimburse Provider for the reasonable cost of any maintenance or repairs resulting from damage caused by Customer, its agents, employees, or contractors.

e. Customer-Caused Repairs. Customer shall bear the cost of any service, inspection, or repairs for a Vehicle (collectively, "**Customer-Caused Repairs**") resulting from (i) damage to a Vehicle or the System caused by Customer, its agents, employees, contractors, Drivers, or passengers, (ii) Customer's use of the any Vehicle, or any other action or inaction of the Customer, that voids the OEM Warranty for such Vehicle or is outside of the Prudent Vehicle Practices, or (iii) Customer's failure to perform or cause to be performed any Repair Work in accordance with this Agreement. Customer shall also be responsible for ensuring that a properly trained Customer employee or contractor performs all Repair Work and Customer-Caused Repairs completed by or for Customer. A Customer-Caused Repair specifically excludes any Repair Work necessitated due to damage caused to a Vehicle as a result of following Provider's guidance or instructions with respect to such Repair Work.

11. Premises.

a. System Site Plan. To achieve System efficiencies, to respond to the requirements of the applicable local utility or Governmental Authority, or to respond to the reasonable requests of Customer for changes to the preliminary System Site Plan attached as **Exhibit 1B** to the Scope of Services, Provider may propose adjustments to the design, equipment, or layout of the System at the Premises or any on-site installation schedule so that the preliminary System Site Plan attached as **Exhibit 1B** is no longer materially accurate. Prior to implementing any such change, Provider shall deliver to Customer an updated plan for the System at the Premises. Customer shall have ten (10) days after receipt of any design update, which may be in any form mutually acceptable to the Parties, including a change order, to (i) approve or disapprove such updated design and (ii) notify Provider of any site conditions or technical, electrical, or structural impediments known to Customer which could reasonably be anticipated to prevent, delay or add cost to the System installation. Customer's failure to respond within such ten (10) day period shall be deemed approval of, and agreement to, such updated System design. If Customer disapproves an updated design of the System at the Premises, Provider shall use commercially reasonable efforts to modify the design and resubmit it for Customer's approval. Any updated System design at the Premises that is agreed by Customer and Provider shall be deemed the "**System Site Plan"** hereunder and shall replace and supersede any prior System Site Plan. If any design modifications requested by Customer render the System or any component thereof non-viable or require additional expense by Provider, in Provider 's reasonable judgment, Provider may terminate this Agreement by providing thirty (30) days' prior written notice to Customer, in which case neither Party shall be liable for any damages in connection with such termination. Provider may, at its discretion, upon written notice to Customer add additional Chargers and Infrastructure at the Premises within the area(s) on the System Site Plan designated for stationary System equipment, at no additional cost to Customer. Provider shall have no obligation to obtain Customer approval of immaterial changes to the System Site Plan; provided, that, within thirty (30) days after completion of all Installation Services, Provider will deliver to Customer a final, as-built System Site Plan, reflecting the as-installed System with all such immaterial changes. Changes to the System Site Plan may be made by change order or any other form acceptable to the Parties, so long as such changes to the System Site Plan are specified and acknowledged in writing by the Parties. However, immaterial changes to the System Site Plan made by Provider need only be reflected on the as-installed System Site Plan delivered by Provider to Customer.

b. Access Rights. Customer represents and warrants that, as of the Effective Date, Customer occupies, uses, and controls the Premises (through fee title ownership, easement rights, lease, or similar) and Customer represents that, throughout the Term, Customer will control, use, and occupy the Premises in in substantially the same manner as Customer's use and occupancy as of the Effective Date. Customer, as owner of a Premises, or with full permission from the owner of the Premises, if other than Customer (the "**Landowner**"), hereby grants to Provider and to Provider's agents, employees, contractors, subcontractors, and the utility serving the Premises a non-exclusive, royalty free, license running with the Premises (the "**Non-Exclusive License**") for access to, on, over, under and across such Premises from the Effective Date until the date that is ninety (90) days following the date of expiration or earlier termination of the Term (the "**License Term**"), for the purposes of performing the Services and all of Provider's obligations and enforcing all of Provider's rights set forth in this Agreement and otherwise as required by Provider in order to effectuate the purposes of this Agreement, including performing due diligence of the Premises. In addition, Customer, as the owner of the Premises, or with full permission from the Landowner, hereby grants to Provider an exclusive, sub-licensable license running with the Premises during the License Term (the "**Exclusive License**," and together with the above Non-Exclusive License, the "**Licenses**") for the sole purposes of installation, operation, use, repair, and removal of the Chargers and Infrastructure on or from the Premises. To the extent Customer does not own the Premises, Customer will use commercially reasonable efforts to secure from the Landowner of such Premises, written consent to the Licenses and contemplated uses associated with the Licenses prior to the initiation of Installation Services at the Premises consistent with this Agreement. In connection with the access rights under the Licenses, Customer shall provide Provider and its agents access to the Premises during ordinary business hours (or during such times as Customer may otherwise consent to, such consent not to be unreasonably withheld, conditioned, or delayed); provided, however, that in instances that facilitate prompt performance of repairs, require emergency response, and/or permit Provider to mitigate risk of property losses associated with the System, Customer shall provide to Provider and its agents 24/7 access to the Premises (including provision of keys or gate pass codes).

12. Ownership and Risk of Loss; Liens.

a. Ownership of System; Risk of Loss. As between Provider and Customer, Provider (including, for this purpose, a Provider affiliate or Financing Party) shall be the legal and beneficial owner of the System, and the System will remain

the personal property of Provider (or its affiliate or Financing Party) and no part of the System will attach to or be deemed a part of, or fixture to, the Premises. Risk of loss of the System, including the Vehicles (only while parked), Chargers, and Infrastructure shall be borne by Provider. Customer shall bear the risk of loss and liability associated with driving of the Vehicles by Customer, including for the acts or failures of its Drivers (and any chaperones or assistants under control of Customer) and passengers.

b. Notice to Customer Lienholders; Liens. Customer shall use commercially reasonable efforts to place all parties having a lien on the Premises or any improvement on which any part of the System is installed on notice of the ownership of the System and the legal status or classification of the System as personal property. If any mortgage or fixture filing against the Premises could reasonably be construed as prospectively attaching to the System as a fixture of such Premises, Customer shall provide a disclaimer or release from such lienholder in a form acceptable to Provider. Customer shall not directly or indirectly (including through any affiliate of Customer) cause, create, incur, assume, or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature, except such encumbrances as may be required to allow Provider access to the Premises on or with respect to the any components of any System.

c. Fixture Disclaimer. If Customer is the fee owner of the Premises under this Agreement, Customer consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where such Premises are located. If Customer is not the fee owner of any Premises, Customer shall use commercially reasonable efforts to obtain consent from the applicable Landowner to file a fixture disclaimer. For the avoidance of doubt, Provider has the right to file such disclaimer.

d. UCC Filing. The System will at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code of the jurisdiction identified by this Agreement as the source of governing law ("**UCC**"). Customer authorizes Provider or any Financing Party (defined below) to file a precautionary UCC financing statements and other similar filings and recordings with respect to any System component. Customer agrees not to file any corrective or termination statements or partial releases with respect to any such UCC financing statements or other similar filings or recordings filed by Provider in connection with a System component, except (i) if Provider fails to file a corrective or termination statement or release on request from Customer after the expiration or earlier termination of the Agreement, or (ii) with Provider's consent.

13. Insurance. During the Term, the Parties shall comply with the insurance provisions below.

a. Insurance – Customer. Customer shall maintain or ensure the following is maintained (i) commercial general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 general aggregate; (ii) automobile liability insurance and physical damage covering all Vehicles with coverage of at least $1,000,000 combined single limit per occurrence and $2,000,000 general aggregate, including collision coverage on a replacement cost basis; (iii) umbrella form excess liability insurance in excess of the limits provided by the commercial general liability and automobile policies with limits of at least $5,000,000 per occurrence; (iv) employer's liability insurance with coverage of at least $1,000,000; and (v) workers' compensation insurance as required by law. Provider, its parent, its subsidiaries, and its affiliates shall be named as a loss payee on Customer's property insurance policy and as additional insureds on all other insurance required by this **Section 13**, other than employer liability and workers compensation insurance. Each of the foregoing Customer insurance policies shall include a waiver of subrogation in favor of Provider, its parent, its subsidiaries, and its affiliates. Customer shall assure that each Driver is covered under the Customer's liability and employer/ workers compensation insurance policies.

b. State Minimum Coverage. If at any time the minimum financial responsibility applicable to Customer as operator of the Vehicles, whether imposed by applicable law or by Governmental Authority, exceed the Customer insurance minimums stated in this Agreement, Customer must obtain and maintain the insurance at such higher, required levels.

c. Insurance – Provider. Provider shall maintain (or have maintained on its behalf) the following insurance policies, covering the activities of Provider under this Agreement: (i) property insurance for the Vehicles while parked (i.e. comprehensive auto coverage), the Infrastructure, and the Chargers; (ii) commercial general liability insurance with coverage of at least $1,000,000 combined single limit per occurrence and $2,000,000 annual aggregate; (iii) umbrella form excess liability insurance in excess of the limits provided by the commercial general liability policy with limits of at least $5,000,000 per occurrence and annual aggregate; (iv) employer's liability insurance with coverage of at

least $1,000,000; and (v) workers' compensation insurance as required by law. Provider's insurance will not be called upon to respond to or cover Customer's negligence or willful misconduct.

d. Additional Requirements of Customer and Provider. All liability insurance and property insurance maintained by a Party as required by this Agreement shall name the other Party (or, upon request, its applicable financing party or other designee) as an additional insured, and, with respect to property insurance, as loss-payee. All liability insurance and property insurance policies required to be maintained by a Party (each, an "**Insured**") under this Agreement: (i) shall be issued by a company with an A.M. Best rating of not less than A:VIII; (ii) shall not be cancelled, changed, or modified until after the insurer or the Insured has given to the other Party ("**Beneficiary**") at least thirty (30) days' prior written notice of such proposed cancellation, change, or modification; (iii) no act or default of the Customer, as Insured, or any other person or entity shall affect the right of the Provider, as Beneficiary, or its successors or assigns to recover under such policy or policies of insurance in the event of any loss of or damage to any Vehicle; and (iii) the coverage under each such policy is "primary coverage" for the protection of Customer and Provider and their respective successors and assigns, notwithstanding any other coverage carried by Customer or Provider or any of their respective successors or assigns protecting against similar risks. As soon as possible after the Effective Date, and thereafter, upon request of the other Party, each Party shall provide the other Party a certificate or other reasonable evidence of the insurance required to be maintained by such Party under this Agreement. Customer, its Drivers, and its agents will cooperate with Provider and any of Customer's or Provider's insurance carriers in the investigation, defense, and prosecution of all claims or suits arising from the use or operation of any Vehicle. If any claim is made or any action is commenced for death, personal injury, or property damage resulting from the ownership, maintenance, use or operation of any Vehicle; each Party will promptly notify the other Party of such action or claim and will forward to the other Party a copy of every demand, notice, summons, or other process received in connection with such claim or action.

e. Damage to or Destruction of System.

i. *Notice and Inspection.* Customer shall notify Provider immediately of any insurable or potentially insurable claims affecting the System of which Customer becomes aware, including any evidence of malfunction, damage, or destruction. Upon such notice, Provider may enter the Premises and access the System to inspect the Vehicles, the Chargers, or any Infrastructure, as applicable.

ii. *Substantial Damage; Destruction.* If the System is substantially damaged or destroyed, other than due to a Default Event (defined below) by Provider, Provider will have the right, exercisable upon written notice to Customer, to terminate this Agreement or to repair and restore the System and, if applicable, receive from Customer the proceeds of any insurance maintained by Customer that cover the loss relating to such damage or destruction of the System. If Provider elects to repair and restore the System (or portion thereof), the Parties will work in good faith to promptly agree on a scope of work and schedule for repair and restoration work and, as applicable, and adjustments to the Term and Contract Price.

iii. *Use of Insurance Proceeds*. Subject to clause (ii), above, insurance proceeds shall be applied to prompt repair, restoration or replacement of the applicable System components. Each Party shall be responsible for any insurance deductibles, except in the case of claims resulting from the other Party's negligence or breach of this Agreement, in which case such other Party shall be responsible for payment of the insured Party's deductible for any responding insurance. In the event such proceeds are insufficient to accomplish such repair, restoration or replacement due to Customer's failure to comply with the terms of the applicable insurance policies or with this Agreement, Customer shall be financially responsible for any additional funds required to complete the necessary work.

14. Miscellaneous Obligations and Representations Concerning the Premises and System.

a. Safety Requirements. Provider and its employees, agents and contractors shall comply with Customer's site safety and security requirements provided to Provider by Customer when on the Premises during the License Term. During the License Term, Customer shall, and shall cause the Landowner, if different, to preserve and protect Provider's rights under the Licenses and Provider's access to Premises, and shall not interfere, or permit any third parties under Customer's control to interfere with such rights or access. Customer acknowledges that Provider may prepare and record in the relevant registry of deeds evidence of the Licenses (which may be a memorandum of license and/or a separate license instrument consistent with this Section), and Customer shall cooperate with such efforts, including by executing such document(s). Each Party shall comply with all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws and codes with respect to such Party's performance under this

Agreement.

b. Maintenance of Premises. Customer shall, at its sole cost and expense, maintain the Premises in good condition and repair. Customer, to the extent within its reasonable control, (i) shall ensure that the Premises remains connected to the local electric utility grid at all times; (ii) shall assure that the Premises maintains ingress and egress access to and from a public right of way sufficient in area and design to accommodate each Vehicle; and (iii) shall not permit or cause cessation of electric service to such Premises from the local electric utility.

c. No Alteration of Premises. Not less than thirty (30) days prior to making or allowing to be made any planned alterations or repairs to a Premises that may adversely affect the operation and maintenance of the System, Customer shall inform Provider in writing and, thereafter, shall use commercially reasonable efforts to conduct, or cause to be conducted, such repairs, alterations or improvements in compliance with any reasonable written request to mitigate any adverse effect that is delivered by Provider no later than ten (10) days Provider receives Customer's alternation notice. If any repair, alteration, or improvement results in a permanent and material adverse economic impact on the System, Customer may request relocation of the System under **Section 14(g)**. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, Provider shall perform such work, and any re-connection or re-installation of the System, at Customer's cost.

d. Approvals; Access to Customer Information. Customer shall cooperate with Provider's reasonable requests to assist Provider in obtaining such Approvals, including, without limitation the execution of documents required to be provided by Customer to the utility, such as any easements and consents from Customer or the owner of the Premises or of adjacent properties. Customer has provided to Provider all material concerning Customer, Customer's operations, and the Premises and Customer's use thereof (including information pertaining to underground utilities, conservation easements, wetlands, and the like), and such information is accurate in all material respects.

e. Customer's Interest in Premises. Customer represents, warrants, and covenants to Provider the following as of the Effective Date: (a) Customer has title to or a leasehold or other valid property interest in such Premises, (b) the grant of the Licenses and other rights under this Agreement does not violate any law, ordinance, rule, or other governmental restriction applicable to Customer or the Customer's use of the Premises and is not inconsistent with and will not result in a breach or default under any agreement by which Customer is bound or that affects the Premises or, if applicable, the System, and (c) if Customer does not own the Premises under this Agreement or any improvement to such Premises on which the System is to be installed, Customer has obtained all required consents from the Premises Landowner or improvement owner, as the case may be, to grant the Licenses and other rights to Provider with respect to such Premises and improvement(s) so that Provider may perform its obligations under this Agreement.

f. Environmental.

i. *Representations*. Customer represents that there are no Hazardous Substances (as defined below) present on, in or under the Premises in violation of any applicable law. Customer shall not introduce, store, discharge, manage or use any Hazardous Substances on, in or under the Premises in violation of any applicable laws, legal requirements, or Provider's maintenance obligations. In the event of the discovery of Hazardous Substances on, in or under the Premises, Customer shall comply with all applicable laws relating thereto. In no event shall Provider be responsible for Hazardous Substances on or migrating from the Premises arising from or related to acts or omissions that were not caused by Provider. The provisions of this Section shall survive the termination or expiration of this Agreement.

ii. *Notices*. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.

iii. "**Hazardous Substance**" means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

g. Relocation. If, during the Term, (i) Customer ceases to use any Vehicle to conduct transportation operations at the Premises, or vacates such Premises; (ii) the Premises are substantially damaged or destroyed; or (iii) the Customer is otherwise unable to continue to host the System at the Premises for any other reason (other than a Default Event by Provider), Customer may propose in writing the relocation of the Chargers and Infrastructure, at Customer's cost, in lieu of termination of the Agreement by Provider for a Default Event (defined below) by Customer. If such proposal is practically feasible and preserves the economic value of the agreement for Provider, the Parties shall seek to negotiate in good faith an agreement for the relocation of the Chargers and Infrastructure. If the Parties are unable to reach agreement on relocation of such Chargers and Infrastructure within sixty (60) days after the date of receipt of Customer's proposal, Provider may terminate this Agreement pursuant to **Section 16(b)(ii)**.

h. End of Term; Removal. The Parties acknowledge Provider's investment in, and the expected long-term value of, the System, including the charging, electrical infrastructure, and metering components of the Chargers and Infrastructure. The Parties therefore agree to meet at least one (1) year prior the end of the Initial Term or, as applicable, the Extension Term or as soon as practicable upon the earlier termination of this Agreement in order to discuss the use of the components of the System in connection with Customer's future transit plans. Customer will endeavor to use such System components in connection with any future electrical vehicle operations, to the extent practicable and upon agreement to a reasonable purchase or lease arrangement with Provider, but in no event shall Customer or Provider be obligated to enter into any such arrangement. Unless such arrangement is entered into, during the 90-day period following the last day of the Initial Term or, as applicable, the Extension Term, (i) Customer shall take all such action as reasonably necessary to repair, clean, and restore the Vehicles included in the System consistent with Prudent Vehicle Practices so that such Vehicles are fully operational and in a good state of repair, reasonable wear and tear excepted; and (ii) Provider shall, at its expense and in a reasonably diligent manner, (A) decommission and remove from the Premises all above-ground property comprising the System, and (B) return to substantially original condition (excluding ordinary wear and tear) any portion of the Premises that was impacted by the above-ground components of the System or during its decommissioning. Customer must provide access, space, and cooperation as reasonably necessary to facilitate removal of the Chargers and Infrastructure. If Provider fails to remove or commence substantial efforts to remove the Chargers and Infrastructure as required by this provision, Customer may, at its option, remove such Chargers and Infrastructure to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) at Provider's cost.

15. Mutual Representations and Warranties; Disclaimer.

a. Each Party represents and warrants to the other the following as of the Effective Date:

i. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company, or, if required for such Party, action by Governmental Authority, as applicable, and do not and will not violate any law; and this Agreement is the valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, and other similar laws relating to creditors' rights generally);

ii. Such Party has obtained all licenses, authorizations, consents, and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business, and to execute and deliver this Agreement, and such Party is in compliance with all laws that relate to this Agreement in all material respects; and

iii. Neither the execution and delivery of this Agreement by such Party nor the performance by such Party of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which it is a party or by which it is bound.

b. EXCLUSION OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES PROVIDED BY PROVIDER TO CUSTOMER PURSUANT TO THIS AGREEMENT SHALL BE "AS-IS WHERE-IS." NO OTHER WARRANTY TO CUSTOMER OR ANY OTHER PERSON, WHETHER EXPRESS, IMPLIED OR STATUTORY, IS MADE AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE SYSTEM OR ANY SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY PROVIDER.

16. Default, Remedies and Damages.

a. Default. Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below is deemed a "**Defaulting Party**," the other Party is the "**Non-Defaulting Party**" and each of the following is a "**Default Event**":

i. failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay ("**Payment Default**");

ii. failure of a Party to perform any material obligation under this Agreement or other provision of this Agreement not addressed elsewhere in this **Section 16(a)** within ninety (90) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that if the Default Event cannot reasonably be cured within ninety (90) days and the Defaulting Party has demonstrated prior to the end of that period that it is diligently pursuing such cure, the cure period will be extended for a further reasonable period of time, not to exceed one hundred eighty (180) days;

iii. any representation or warranty given by a Party under this Agreement, was incorrect in any material respect when made and is not cured within sixty (60) days following receipt of written notice from the Non-Defaulting Party demanding such cure;

iv. a Party becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if any such actions are initiated by a third party, such action(s) is (are) not dismissed within sixty (60) days); or

v. in the case of Customer as the Defaulting Party only, Customer (A) loses its rights to access, operate, maintain, repair, or otherwise use any Vehicle under this Agreement whether at the Premises or otherwise, (B) loses its rights to access, use, occupy, and enjoy the Premises unless the Parties agree upon a relocation of the System under **Section 14** above; or (C) prevents Provider from performing any material obligation under this Agreement with respect to this Agreement unless such action by Customer (I) is permitted under this Agreement, or (II) is cured within ten (10) days after written notice thereof from Provider.

The failure of the Charger Uptime Guarantee or the Route Readiness Guarantee as to any Vehicle shall not be a Default Event by Provider so long as Provider satisfies any obligation under this Agreement to pay or credit Customer with respect to such failure.

b. Remedies.

i. Upon the occurrence and during the continuation of a Default Event by Customer, including a Payment Default, Provider may suspend performance of its obligations under this Agreement until the earlier to occur of the date (a) that Customer cures the Default Event in full, or (b) termination of this Agreement. Provider's rights under this **Section 16(b)(i)** are in addition to any other remedies available to it under this Agreement, at law, or in equity. Notwithstanding suspension by Provider under this Section, during the period of the suspension, Provider shall have access to and use of the Premises and System, including the Vehicles, and may continue to provide Services during the period of the suspension.

ii. Upon the occurrence and during the continuation of a Default Event, the Non-Defaulting Party may terminate this Agreement, by providing five (5) days prior written notice to the Defaulting Party; provided, that, in the case of a Default Event under **Section 16(a)(iv),** the Non-Defaulting Party may terminate this Agreement immediately.

iii. Upon a termination of this Agreement due to a Default Event by Customer, Customer shall pay to Provider, as a reasonable estimate of Provider's damages, and not as a penalty, a termination payment in accordance with **Exhibit 2B.** In addition, upon termination of this Agreement due to a Default Event, and subject to **Sections 17(c)** and **(d)**, the Non-Defaulting Party may exercise any other remedy available at law or equity or under this Agreement, including recovery of all reasonably foreseeable damages.

a.

c. Obligations Following Termination. If a Party terminates this Agreement pursuant to **Section 16(b)(ii),** then following such termination, the Parties will perform their respective obligations in compliance with **Section 14** at the sole cost and expense of the Defaulting Party; provided, that Provider shall not be required to remove the System following the occurrence of a Default Event by Customer pursuant to **Section 16(a)(i),** unless Customer pre-pays the cost of removal

and restoration reasonably estimated by Provider. Nothing in this Section limits either Party's right to pursue any remedy under this Agreement, at law or in equity, including with respect to the pursuit of an action for damages by reason of a breach or Default Event under this Agreement. Regardless of whether this Agreement is terminated for a Default Event, the Non- Defaulting Party must make commercially reasonable efforts to mitigate its damages resulting from such Default Event.

17. Indemnification and Limitations of Liability.

a. General. Subject to Minnesota law, each Party (the "**Indemnifying Party**") shall defend, indemnify, and hold harmless the other Party, its affiliates, and their respective officers, agents and employees (collectively, the "**Indemnified Parties**"), from and against any loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from any Claim (as defined below) relating to (1) the Indemnifying Party's breach of any representation or warranty set forth in **Section 15**, (2) a breach by the Indemnifying Party of its obligations under this Agreement, or (3) injury to or death of persons, and damage to or loss of property, to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents, or employees) in connection with this Agreement; provided, that nothing herein will require the Indemnifying Party to indemnify the Indemnified Parties for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, an Indemnified Party.

b. Notice and Participation in Third Party Claims. The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party may settle any Claim covered by this Section unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party has no liability under this Section for any Claim for which such notice is not provided if the failure to give notice prejudices the Indemnifying Party.

c. Limitations of Liability.

i. Except with respect to indemnification Claims and claims concerning Hazardous Substances pursuant to this Section, neither Party nor its directors, officers, shareholders, partners, members, managers, agents, employees, subcontractors, or suppliers will be liable for any special, punitive, exemplary, indirect, or consequential damages, whether foreseeable or not, arising out of, or in connection with, this Agreement; provided, that the foregoing limitations shall not apply to: (a) liabilities arising from fraud, gross negligence, or willful misconduct by a Party; or (b) losses and liabilities arising with respect to the clawback or recapture of any Incentive awards which, for the avoidance of doubt, shall constitute direct damages under this Agreement. For avoidance of doubt, any amount incurred by Provider upon default by Customer to prepay any debt incurred by Provider to finance any Vehicle or other System asset pursuant to this Agreement, including any prepayment fees, original issue discount, breakage, hedge, or swap termination fees, and other amounts payable by Provider to any Financing Party as a consequence of such Customer default, shall be included in Provider's direct damages.

ii. Except with respect to indemnification of Claims and claims concerning Hazardous Substances pursuant to this Section, Provider's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance hereof cannot exceed the payments made by Customer to Provider in the immediate two (2) years during the Term prior to the related Claim. The provisions of this Section will apply whether such liability arises in contract, tort, strict liability, or otherwise.

a.

d. EXCLUSIVE REMEDIES. TO THE EXTENT THAT THIS AGREEMENT SETS FORTH SPECIFIC REMEDIES FOR ANY CLAIM OR LIABILITY, AND SUCH REMEDIES ARE EXPRESSLY STATED TO BE EXCLUSIVE REMEDIES, SUCH REMEDIES ARE THE AFFECTED PARTY'S SOLE AND EXCLUSIVE REMEDIES FOR SUCH CLAIM OR LIABILITY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE),

STRICT LIABILITY OR OTHERWISE.

e. Comparative Negligence. Where negligence is determined to have been joint, contributory, or concurrent, each Party shall bear the proportionate cost of any Liability.

18. Force Majeure.

a. Force Majeure Event. If either Party is unable to timely perform any of its obligations (other than payment obligations) under this Agreement in whole or in part due to a Force Majeure Event, that Party will be excused from performing such obligations for the duration of the time that such Party remains affected by the Force Majeure Event; provided, that such Party uses commercially reasonable efforts to mitigate the impact of the Force Majeure Event and resumes performance of its affected obligations as soon as reasonably practical. The Party affected by the Force Majeure Event shall notify the other Party as soon as reasonably practical after the affected Party becomes aware that it is or will be affected by a Force Majeure Event. If the Force Majeure Event occurs during the Term and impacts the ability of Provider to provide Services to Customer, the Term will be extended by a day for each day delivery is suspended due to the Force Majeure Event.

b. Definition of Force Majeure Event. "**Force Majeure Event**" means any event or circumstance beyond the reasonable control of and without the fault or negligence of the claiming Party which prevents or precludes the performance by the claiming Party of its obligations under this Agreement (other than payment) and which, subject to the foregoing, may include an event or circumstance due to: an act of god; war (declared or undeclared); sabotage; cyberattack or ransomware attack; piracy; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; epidemic or pandemic; animals; the binding order of any Governmental Authority; the failure to act on the part of any Governmental Authority (including, without limitation, delays in permitting not caused by actions or omissions of the Party seeking such permit); unavailability of electricity from the utility grid and material delays in utility work associated with interconnecting to the grid and distribution of electricity to and from the applicable Premises; and failure or unavailability of equipment, supplies or products outside of Provider's control or due to a Force Majeure Event.

19. Assignment and Financing.

a. Assignment.

i. Subject to the remainder of this **Section 19(a),** this Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld, conditioned, or delayed. Customer may not withhold its consent to an assignment proposed by Provider where the proposed assignee, itself or in conjunction with its affiliates and contractors, has the financial capability necessary to meet Provider's obligations this Agreement, provided that the proposed assignee shall not be required to have financial capability or experience greater than that of Provider immediately prior to such assignment.

ii. Notwithstanding **Section 19(a)(i),** Provider may, without the prior written consent of Customer, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this Agreement to (A) any Financing Party (as defined in **Section 19(b)**), (B) any entity through which Provider is obtaining financing from a Financing Party, (C) any affiliate of Provider or any person succeeding to all or substantially all of the assets comprising any System, or (D) a third party financial owner of a System, provided that Provider or its asset management affiliate remains the asset manager of the applicable System. Provider shall not be released from liability hereunder as a result of an assignment under subsections (C) or (D) hereof unless the assignee assumes Provider's obligations hereunder by binding written instrument. The rights of Provider under this **Section 19(a)(ii)** do not include the right to impose a lien or other encumbrance on the real property of Customer.

b. Financing. The Parties acknowledge that Provider may obtain debt or equity financing or other credit support from lenders, investors or other third parties (each, a "**Financing Party**") in connection with the installation, construction, ownership, and repair of a System, and, as a result thereof, may grant a lien on or security interest in all or any part of the System and its rights under this Agreement (including any rights to payment of amounts hereunder). Customer acknowledges that a Financing Party may possess an ownership or security interest in the System, or component thereof, and in Provider's right to proceeds, rental and other payments under this Agreement. Provider's rights under

this Agreement are subject and subordinate to the rights of the Financing Party under the documents evidencing Provider's obligations to Financing Party. In furtherance of Provider's financing arrangements and in addition to any other rights or entitlements of Provider under this Agreement, Customer shall deliver to Provider reasonable evidence of Customer's authority to enter into and perform this Agreement (for example, a copy of the authenticated, final approving resolution of the Customer's governing body) and Customer shall timely execute any consents to assignment (which may include notice, cure, attornment and step-in rights) or estoppels and negotiate any amendments to this Agreement that may be reasonably requested by Provider or the Financing Parties; provided, that such estoppels, consents to assignment, or amendments do not alter the fundamental economic terms of this Agreement or interfere with Customer's use of the System under this Agreement in accordance with this Agreement. The Parties expressly agree that Financing Party is and shall be a third-party beneficiary under this Section.

c. Lender Step-In Right. Customer acknowledges and agrees that upon written notice from a Financing Party, Customer will make all payments due to Provider identified by the Financing Party or under this Agreement, as a whole, directly to such Financing Party, and no such notice shall (1) constitute a Default under this Agreement, (2) impose on Financing Party any obligation to perform any of Provider's obligations under this Agreement, or (3) modify, alter or otherwise impact any rights of Customer or obligations of Provider under this Agreement. Customer hereby expressly grants Financing Party the right and/or license to access the Premises under this Agreement at reasonable times and upon reasonable notice to (i) inspect the System, and (ii) remove any or all of the System, solely in the case of any event that results in a termination or expiration of the Agreement, pursuant and subject to the terms hereof. Customer will have no liability to Provider resulting from Customer's compliance with any notice provided by Financing Party under this Section. Customer agrees that Customer will not pay more than one month's, or any other recurring period hereunder, advance for any recurring amounts due under this Agreement without the consent of the Financing Party identified as having an interest in the System.

20. Confidentiality.

a. Confidential Information. Subject to the Minnesota Data Practices Act (MDPA) and to the maximum extent permitted by applicable law, including any freedom of information or right to know law applicable to Customer (the "**Right to Know Act")**, if either Party provides confidential information ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information of the other Party, the receiving or learning Party shall (i) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information and (ii) refrain from using such Confidential Information, except in the negotiation, performance, enforcement and, in the case of Provider, financing, of this Agreement. The terms of this Agreement (but not the fact of its execution or existence) are considered Confidential Information of each Party for purposes of this Section. Confidential Information does not include any information that (A) becomes publicly available other than through breach of this Agreement, (B) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena, (C) is independently developed by the receiving Party, (D) is required to be disclosed by a Party that is a Governmental Authority subject to freedom of information or similar transparency requirements under applicable law pursuant to a valid request for information under such law, or (E) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority or by a Party that is a Governmental Authority subject to freedom of information law requirements, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall reasonably cooperate with the other Party's efforts to limit the disclosure to the extent permitted by applicable law, including, as applicable, the Right to Know Act.

b. Permitted Disclosures. Notwithstanding **Section 20(a),** a Party may provide Confidential Information to its affiliates and to its and its affiliates' respective officers, directors, members, managers, employees, agents, contractors, consultants, and Financing Parties (collectively, "**Representatives**"), and potential direct or indirect assignees of this Agreement if such potential assignees are first bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information. Each Party is liable for breaches of this provision by any Representative or other person to whom that Party discloses Confidential Information**.**

c. Destruction; Equitable Remedies; Survival. All Confidential Information remains the property of the disclosing Party and, upon request of the disclosing Party, will be returned to the disclosing Party or destroyed (at the receiving Party's option), subject to the record retention obligations of the receiving Party under applicable law and subject to the ability

of the receiving Party to retain an archival copy consistent with receiving Party's written document retention policy. Each Party acknowledges that the disclosing Party would be irreparably injured by a breach of this **Section 20** by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party in breach of this **Section 20**, and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, for breaches of this **Section 20**. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this **Section 20**, but will be in addition to all other remedies available at law or in equity. The obligation of confidentiality will survive termination of this Agreement for a period of two (2) years.

d. Goodwill and Publicity. Neither Party may (i) make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law), or (ii) use service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of the other Party. The Parties shall coordinate and cooperate with each other when making public announcements regarding this Agreement and the System and its use. The Parties agree that at or around the Operational Date, the Parties shall jointly issue an announcement regarding the Services and the System. Provider is entitled to (A) place signage on the System and the Premises reflecting its association with the System, (B) take and use photographs and video of the System for marketing purposes, and (C) use publicly available information and Provider-developed analytics for marketing purposes. All marketing and publicity by a party will comply with applicable law, including privacy law. Provider shall not use images of passengers or Customer personnel without express written permission.

21. General Provisions.

a. Notices. All notices under this Agreement shall be in writing and delivered by hand, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and will be deemed received upon personal delivery, acknowledgment of receipt of electronic transmission (provided that automatic acknowledgment shall not suffice), the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices must be sent to the notice address of a Party identified in the Scope of Services or such other address as either Party may specify in writing pursuant to this Section.

b. Survival. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement as a whole, including, without limitation provisions related to billing and payment and indemnification, will survive such termination.

c. Further Assurances. Each Party shall provide such information, execute, and deliver any instruments and documents and to take such other actions as may be reasonably requested by the other Party to give full effect to this Agreement and to carry out the intent of this Agreement.

d. Waivers. No provision or right or entitlement under this Agreement may be waived or varied except in writing signed by the Party to be bound. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly provided.

e. Non-Dedication of Facilities. Nothing in this Agreement may be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party may knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party may assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Agreement.

f. No Partnership. No provision of this Agreement may be construed or represented as creating a partnership, trust, joint venture, fiduciary, or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither may be considered the agent of the other.

g. Service Contract. The Customer and Provider intend and agree that this Agreement is a "service contract" within the meaning of Section 7701(e) of the Internal Revenue Code of 1986, as amended.

h. Customer-Specific Provisions. Except as otherwise expressly stated on **Exhibit 2C, t**he provisions of any **Exhibit 2C** included as part of this Agreement replace and supersede any inconsistent provision included in the Scope of Services, these Terms and Conditions, or any Exhibit to the extent of the inconsistency.

i. Entire Agreement, Modification, Invalidity, Captions. This Agreement constitutes the entire agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written. No aspect of this Agreement (including, the Services, the Contract Price, the number or specifications for the Vehicles, or other provision) may be modified, other than pursuant to a written document executed by Customer and Provider, including a written amendment, supplement, or change order, that identifies specific changes to the Services, the Contract Price, the number or specifications for the Vehicles, or other provision this Agreement, subject only to **Section 11(a)** concerning changes to the System Site Plan. If any provision of this Agreement is found unenforceable or invalid, such provision shall not be read to render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be rectified or interpreted so as to best accomplish its objectives within the limits of applicable law.

j. Order of Precedence. This Agreement is comprised of the Scope of Services (Part 1), these Terms and Conditions (Part 2), and the Exhibits to each such Part, each of which are incorporated herein by reference. In the event of any conflicts among the Parts and any Part Exhibit, Exhibit 2C (Customer-Specified Terms), if any, shall prevail, followed by Parts 1, including its Exhibits, and Part 2, including its Exhibits (other than any Exhibit 2C), in that order of precedence.

k. No Third-Party Beneficiaries. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto, and the Financing Parties, to the extent provided herein or in any other agreement between a Financing Party and Provider or Customer, and do not imply or create any rights on the part of, or obligations to, any other Person.

l. Affiliate Operations. For purposes of this Agreement, if Customer's affiliate(s) is (are) the applicable lessee or Landowner of the Premises, or the operating entity actually conducting operations with respect to vehicles maintained at the Premises, then Customer shall cause such affiliate to comply with the terms, covenants and obligations of this Agreement which apply to the activities of such affiliate. Customer represents and warrants that Customer has the authority to bind and ensure performance from such affiliates.

m. Counterparts. This Agreement may be executed in any number of separate counterparts and each counterpart will be considered an original and together comprise the same agreement.

<<<End of Terms and Conditions>>>

Part 2, Exhibit 2A
Certificate of Commercial Operation

PROJECT NAME: Edina Public Schools 2-Bus Electrification Project
PROJECT ADDRESS: 5201 W 76th Street, Edina, MN 55439

OPERATIONAL DATE:[_____]

Pursuant to **Section 7** of the Terms and Conditions under the Transportation Equipment Services Agreement (as may be amended or modified from time to time, the "**Agreement**"), dated [_____] by and between Edina Public Schools ("**Customer**") and HEF-P Edina, LLC ("**Provider**"), this Operational Date Certificate ("**Certificate**") is hereby provided by Provider to Customer in accordance with the Agreement. All capitalized terms used, but not defined, herein shall have the meaning ascribed to them in the Agreement.

This Certificate applies to the System.

Provider hereby certifies that, as of the Operational Date set forth above and subject to Punchlist Items set forth on the list attached to this Certificate: (i) the Vehicles conforming to the Specifications are available at the Premises and operational; (ii) the Chargers are installed at the Premises and operational; (iii) the Infrastructure necessary to support the Vehicles and the Chargers is installed at the Premises and operational; and (iv) any Approvals required for the installation and operation of the System have been obtained.

Upon acceptance of this Certificate, Customer agrees that the Operational Date for the System is the Operational Date set forth above.

IN WITNESS WHEREOF, Provider and Customer are executing this Certificate as of the Operational Date set forth above on this Certificate.

Provider:

HEF-P EDINA, LLC

By: _____
Name:
Title:
Date: _____

Customer accepts Provider's Certificate and acknowledges the Operational Date as set forth above.
EDINA PUBLIC SCHOOLS:

By: _____
Name:
Title:
Date: _____

Attachments: Punch List Items

<<<End of Part 2, Exhibit 2A>>>

Part 2, Exhibit 2B
Termination Payment Schedule

Date of Termination due to Customer Default Event	Termination Payment*
From Effective Date through last Operational Date	**$621,000.00**
Contract Year 1	**$381,000.00**
Contract Year 2	**$315,000.00**
Contract Year 3	**$267,000.00**
Contract Year 4	**$228,000.00**
Contract Year 5	**$188,000.00**
Contract Year 6	**$148,000.00**
Contract Year 7	**$117,000.00**
Contract Year 8	**$81,000.00**
Contract Year 9	**$43,000.00**
Contract Year 10	**$0.00**

*	Consistent with Agreement Part 2, Sections 16(b)(iii), 16(c), and 17(c)(i)(b) the foregoing Termination Payments shall be due and payable by Customer upon a Customer Default Event and resulting termination of the Agreement *in addition to* the total amount Provider can demonstrate is required to be paid by Provider or any affiliate of Provider due to a Customer Default Event or any related termination of this Agreement in respect of any Incentive, including recapture of the value of any Incentive, interest, and penalties; provided, however, that in all such instances Provider shall use reasonable efforts to mitigate the amount paid or payable by Provider or any Provider affiliate in this regard.

<<<End of Part 2, Exhibit 2B>>>

Part 2, Exhibit 2C
Customer-Specific Provisions

1. **Status of Agreement**. The Customer and Provider acknowledge and agree that this Agreement is a contract for "the transportation of school children" within the meaning of MN Statute § 123B.52(3).

2. **Customer Operation of Vehicle During Cold Weather**. Notwithstanding the VOP otherwise applicable under this Agreement: (a) on any day when the ambient temperature at and around the Premises during the expected period of Vehicle operation is below 15°F, the Vehicle shall have been charged for at least four (4) hours prior to any Vehicle operation, and the Vehicle operation following such minimum charging period shall not exceed a total of 55 miles; and (b) on any day when the ambient temperature at and around the Premises during the expected period of Vehicle operation is below 32°F but not below 15°F the Vehicle shall have been charged for at least four (4) hours prior to any Vehicle operation, and the Vehicle operation following such minimum charging period shall not exceed a total of 70 miles.

3. **Adequacy of Customer's Existing Electrical Service**. Provider will reimburse Customer for charging electricity costs associated with use of the System. The System will connect to the distributed electricity system of the local electric distribution utility via the electrical equipment located at or on the Premises as of the Effective Date, including electrical panel, overhead line, transformer, and service connection (collectively, "**Existing Equipment**"), and charging electricity for the Vehicle will be provided via the System through the Customer's electrical service ("**Customer Utility Service**"), subject to reimbursement by Provider of the cost of such charging electricity. The sufficiency of the Existing Equipment and the Customer Utility Service to provide charging electricity to the Vehicles throughout the Term, as contemplated by the Agreement, is a "Condition Precedent" within the meaning of Terms and Conditions Section 4(a). If, at any time during the Term, the Customer Equipment or Customer Utility Service is or is deemed, including by Provider or the local electric distribution utility, to be insufficient to provide charging electricity to the Vehicles during the Term as contemplated by the Agreement, then the Parties will have the rights and obligations set forth in Terms and Conditions Section 4(a) and this **Section 3**. In addition to negotiating possible changes to the Contract Price during the thirty (30) day negotiation period contemplated by Terms and Conditions Section 4(a), the Parties will negotiate the most effective and efficient way(s) to address the failure of the Condition Precedent established by this **Section 3** and will use commercially reasonable efforts to remedy the failure, subject to a possible adjustment to the Contract Price pursuant to Terms and Conditions Section 4(a). Further, Provider's obligation to satisfy the Route Readiness Guarantee or the Charger Uptime Guarantee shall be suspended for a period of forty-eight (48) hours following the resolution of a failure of the Existing Equipment or Customer Utility Service; and failure of the Existing Equipment or Customer Utility Service shall each also be a Permitted Exclusion.

4. **Customer Failure to Pay for Electrical Service**. Customer's failure to timely pay bills for Customer's electricity service that effects whether Chargers are Available shall be a Permitted Exclusion.

5. **Customer Engineering & Construction Work**. Customer shall have the following responsibilities with respect to installation of the System at the Premises:
   (a) Securing all Approvals, as necessary, including, without limitation, electrical and building permits, as well as utility inspections and permits;
   (b) Procuring, overseeing, and paying for engineering and design work, including, without limitation, securing stamped engineering drawings, all in accordance with applicable law;
   (c) Providing all necessary materials and labor for secondary construction and electrical work, including, without limitation, breakers, conduit, and wires to Chargers, as well as procuring, overseeing, and paying for contractors to complete construction and electrical work, all in accordance with applicable law;
   (d) Installation of 6" protective bollards for Chargers;
   (e) Installation of conduits to Chargers; and
   (f) Installation of wiring to Chargers.

   Customer shall be responsible for completion of each of the responsibilities set forth in this **Section 5** at least two (2) months prior to the Anticipated Operational Date; provided, however, that Customer must provide Provider with the stamped engineering drawings at least three (3) months prior to the Anticipated Operational Date, and Provider shall have the right to review such drawings and require reasonable changes that Provider deems

necessary for Provider to provide Services in the manner contemplated by this Agreement. If Customer fails to complete these responsibilities in the requisite timeframe, or completes them in a manner that prevents or materially deters Provider's provision of the Services, this shall be a Customer Default Event entitling Provider to the rights set forth in Terms and Conditions Section 16, including, without limitation, the applicable termination payment set forth in **Exhibit 2B**. Customer's obligation to indemnify Provider pursuant to Terms and Conditions Section 17 shall apply to Liabilities arising out of or in connection with Customer's completion of the responsibilities set forth in this **Section 5**, including, without limitation, Liabilities arising out of in connection with responsibilities completed by any contractor, consultant, or other agent retained by Customer.

6. **MDC Grant**. Customer has applied for the Minnesota Department of Commerce's COMM-ESB02-20241028 electric school bus funding opportunity (the "**MDC Grant**").

   a. The Contract Price has been established taking into account the award on or before January 20, 2025, and the payment within six (6) months after award of the MDC Grant in the amounts and as an Existing Incentive as provided in this **Section 6**. Any MDC Grant award or payment in any amount or outside of the time period contemplated by the proceeding sentence, or, without limitation, the absence of a timely award or payment of the MCD Grant as an Existing Incentive in the amount of at least $315,600, shall result in the Base Service Fee for the first Contract Year increasing to **$36,150.00**. Notwithstanding the foregoing: (i) if the MDC Grant is not awarded on or before January 20, 2025, then the Customer shall have the option, on or before February 19, 2025, to terminate this Agreement without penalty; and (ii) if the MDC Grant is awarded on or before January 20, 2025 in an amount that is less than $371,800, the Parties shall negotiate in good faith an upward adjustment to the Base Service Fee that reflects the economic value of the MDC Grant to Provider despite being less than $315,600.

   b. If the MDC Grant is awarded, then the Parties shall revise **Exhibit 1C** of this Agreement as necessary to reflect any compliance requirements of the MDC Grant.

   c. The absence of the MDC Grant prohibiting Provider's ownership or financing of the System, including, without limitation, the Vehicles, pursuant to the terms and conditions of its award to the Customer is a Condition Precedent within the meaning of Terms and Conditions Section 4(a). If such Condition Precedent is not satisfied as provided in this **Section 6(c)**, then the Parties will have the rights and be subject to the obligations relating to failed Conditions Precedent set forth in Terms and Conditions Section 4(a).

<<<End of Part 2, Exhibit 2C>>>