

CHARGING STATION AGREEMENT

This Charging Stations Agreement (the “**Agreement**”) is effective as of October 19, 2020 (the “**Effective Date**”) by and between the City of Charlotte, (“**Site Host**”), a municipality located in Charlotte, Michigan and Red E Charging, LLC (“**Red E Charging**”), a Michigan limited liability company with its principal place of business located at 2475 West Grand Blvd, Detroit, MI 48208. Red E Charging and Site Host may individually be referred to herein as a “Party” and collectively as the “Parties.”

WHEREAS, RED E CHARGING, by installing electric vehicle chargers (“EV Chargers”) on the Premises, as defined herein, will provide value to Site Host by attracting electric vehicle owners and the public to, and providing additional visibility of, the property;

WHEREAS, Site Host acknowledges the value of RED E CHARGING’s EV Chargers on the Premises and desires to grant a license to install and maintain EV Chargers at the Premises to RED E CHARGING pursuant to the terms set forth herein;

NOW THEREFORE, in consideration of the above and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **PREMISES:** Site Host hereby grants to RED E CHARGING a license to install and maintain EV Chargers at the Premises, as defined in **Exhibit A**, upon which RED E CHARGING shall install the EV Chargers as described in that Exhibit.
2. **INITIAL INSPECTION:**
 - A. Early Access. Beginning on October 19, 2020 (“**Initial Inspection Start Date**”) RED E CHARGING shall have a period of up to thirty (30) days during which it will have reasonable, non-exclusive access to the Premises for conducting its reviews and inspections (the “Inspection Period”).
 - B. Application for Permits. During the Inspection Period, RED E CHARGING shall apply and pay for all required permits, variances and/or approvals required for RED E CHARGING’s construction of the improvements on, and RED E CHARGING’s use of, the Premises (collectively, the “Permits”).

C. Right to Terminate. If RED E CHARGING determines, in its sole and absolute discretion, for any reason or for no reason whatsoever, that the Premises are unacceptable for RED E CHARGING's proposed use, RED E CHARGING may, without any liability hereunder, terminate this Agreement upon written notice delivered to Site Host no later than five (5) business days following the expiration of the Inspection Period pursuant to Section 19 of this Agreement.

3. **INSTALLATION:** Upon acceptance of the Premises, RED E CHARGING shall, at its sole expense, install the EV Chargers.
4. **EQUIPMENT:** Two (2) 80A Level 2 Electric Vehicle chargers with Pedestal mount to be installed at site host location.
5. **COMMENCEMENT DATE:** The date that the EV Chargers open to the public (the "Commencement Date") shall be within one hundred and fifty (150) days following the Initial Inspection Start Date, provided that no external permitting, utility or other requirements beyond RED E CHARGING's control delay the installation, despite the best efforts of RED E CHARGING. RED E CHARGING shall provide written notice of the Commencement Date to Site Host pursuant to Section 19 of this Agreement for record keeping purposes. In the event of a delay as described herein, RED E CHARGING shall deliver written notice to Site Host pursuant to Section 19 and this notice shall provide the Commencement Date, which in no event shall be any later than two hundred (200) days following the Initial Inspection Start Date.
6. **TERM:** The initial term of the Agreement shall expire ten (10) years from the Commencement Date (the "Initial Term"). Thirty (30) days prior to the expiration of the Initial Term, The Parties may mutually elect to extend the Agreement and such extension shall be for an additional period of five (5) years (the "Renewal Term" and together with the Initial Term, the "Term"). Following the Renewal Term, any further renewals will be subject to mutual agreement between RED E CHARGING and Site Host and may be of any duration agreed upon by the Parties. In the event Site Host wishes to sell or transfer of the Premises by Site Host

while the Agreement is in effect, Site Host shall either assign this Agreement to the perspective buyer or terminate this Agreement in accordance with Section 7 below.

7. EARLY TERMINATION:

- A.** If at any time after the 36th month of the Term, the EV Chargers at the Premises are performing at an average of fewer than 50 kilowatt hours per month over any period of six (6) consecutive months, RED E CHARGING shall have the right to terminate this Agreement by providing Site Host by providing written notice (the "Termination Notice") pursuant to Section 19 of this Agreement at least sixty (60) days in advance of the termination date, which shall specify the effective date of RED E CHARGING's termination of this Agreement ("Termination Date"). As of the Termination Date, this Agreement shall terminate and neither Party shall thereafter have any further rights or obligations hereunder, except that RED E CHARGING shall pay all monies owed pursuant to Section 10 of this Agreement through the Termination Date, and this Agreement shall be of no further force and effect.
- B.** If Site Host elects to terminate the Agreement prior to the expiration of the Term, Site Host must provide written notice pursuant to Section 19 of this Agreement (the "Termination Notice"), specifying the effective date of Site Host's termination of this Agreement.

 - i. Any termination without cause by the Site Host prior to the end of the thirty-sixth (36th) month of the Term, the Site Host is responsible to reimburse RED E CHARGING for the full cost of any EV Rebate that RED E CHARGING received, all costs Red E Charging incurred for installing the EV Chargers on the Premises, and any costs for Red E Charging to remove the EV Chargers from the Premises.
 - ii. Site Host may terminate for cause without penalty as outlined below in (1) and (2):

 - (1) In the event Site Host has not received payment under the terms of Section 10 of this Agreement by the tenth day of the calendar month, Site Host must provide written notice pursuant to Section 19 of this Agreement to Red E Charging notifying Red E Charging that it has not received payment. If

Red E Charging has not remitted the payment due to Site Host within thirty (30) days of the date of receipt of Site Host's notice, Site Host may terminate the Agreement for cause and without penalty.

(2) In the event that Red E Charging has failed to properly maintain the EV Chargers, Site Host must provide notice pursuant to Section 19 of this Agreement to Red E Charging. This notice shall provide information about the EV Charger(s) requiring maintenance. If Red E Charging has failed to repair or replace the EV Chargers within sixty (60) days of receipt of the Site Host's notice, Site host may terminate the Agreement for cause and without penalty.

iii. If Site Host elects to terminate the Agreement during the Term but after the 36th month without cause, Site Host must reimburse RED E CHARGING for all costs Red E Charging incurred for installing the EV Chargers on the Premises, and all costs for Red E Charging to remove the EV Chargers from the Premises.

C. In all events of termination or expiration of this Agreement, the EV Chargers are owned by Red E Charging and upon termination or expiration of the Agreement, Red E Charging shall remove them and restore the Premises to the original condition.

D. The indemnity responsibilities as described in Section 14 of this Agreement survive termination.

8. **UTILITIES:** Red E Charging agrees to arrange and pay the charges for all utility services provided or used in or at the Premises during the Term. Red E Charging shall pay directly to the utility company. In the event that utility services are disrupted and Site Host becomes aware of such disruption, Site Host shall use its best efforts to quickly notify Red E Charging as soon as possible of the disruption.

9. **USE:** RED E CHARGING shall use and occupy the Premises during the Term for electric vehicle charging services. All use of the Premises by RED E CHARGING shall comply with applicable codes, laws, and ordinances.

10. **PAYMENT FOR CHARGING SERVICES:** RED E CHARGING shall share revenue generated from the EV Chargers in the amount of \$0.03 per kilowatt-hour payable on the tenth day of each calendar month. If the Term is

renewed pursuant to Section 6 of this Agreement, during the first Renewal Term, Red E Charging shall pay a monthly revenue share to Site Host in the amount of \$0.03 per kilowatt-hour, payable on the tenth day of each calendar month. Payments shall be made via direct deposit unless otherwise agreed to by the Parties.

11. **MAINTENANCE:** RED E CHARGING shall be responsible for maintaining the EV Chargers and Site Host shall not have any liability for damage to the EV Chargers unless such damage is caused by Site Host's gross negligence or willful misconduct. Notwithstanding the foregoing, Site Host must maintain the Premises and common areas of the Premises. Site Host agrees to coordinate any parking lot maintenance with RED E CHARGING to ensure that charging stalls remain available as much as is reasonably feasible. RED E CHARGING may, in its discretion and at its sole cost, install security cameras and other equipment to monitor the Premises from off-site. All site equipment installed in relation to the charging infrastructure shall be maintained in good condition for the entire term of the Agreement.
12. **SITE HOST COVENANTS:** Site Host represents that it is the owner of the Premises and that this Agreement does not violate any agreement, lease or other commitment of Site Host. Site Host shall not take any action that would impair or interrupt the use of the Premises or the EV Chargers. Site Host agrees to notify RED E CHARGING within a commercially reasonable time if (i) it has knowledge of third-parties impairing or misusing the Premises or EV Chargers, or (ii) it obtains knowledge of a needed repair to the Premises or EV Chargers. If non-electric vehicle motorists repeatedly park in the stalls dedicated to the EV Chargers ("Dedicated Stalls"), thereby impairing use of the Dedicated Stalls, then the Parties shall together determine and implement an appropriate and effective strategy for preventing such impairment, including, without limitation, alternative signage and painted asphalt. Site Host shall use commercially reasonable efforts to actively monitor the Premises to ensure that use of the EV Chargers is not impaired.
13. **SIGNAGE:** RED E CHARGING signage to be installed at the Premises is represented in **Exhibit B** and shall include signs to identify Dedicated Stalls. Any material revisions or additions to the signage depicted in **Exhibit B** shall be subject to Site Host approval, which shall not be unreasonably withheld, conditioned or

delayed. All signage shall be professionally prepared, installed and maintained at RED E CHARGING's expense.

14. **INDEMNIFICATION:** Except to the extent of any gross negligence or willful misconduct of Site Host, RED E CHARGING hereby agrees to indemnify, hold harmless and defend the Premises, Site Host, its managers, members, agents and representatives from all liability, damages, loss, costs and obligations, including, court costs and attorney's fees, on account of or arising out of or alleged to have arisen out of any claim of any third party directly related to RED E CHARGING's use of the Premises. RED E CHARGING shall promptly remove or bond any liens placed on the Premises as a result of any claims for labor or materials furnished to or for RED E CHARGING at or for use on the Premises.
15. **DESTRUCTION:** Upon total destruction of the Premises either Party shall terminate the Agreement by furnishing written Notice pursuant to Section 19 of this Agreement within thirty (30) days of such destruction.
16. **INSURANCE:**
 - A. RED E CHARGING shall carry commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) for bodily injury or death. A certificate evidencing such insurance shall be delivered to Site Host upon completion of the EV Charger installation and from time to time thereafter as may be requested by Site Host. Upon request, RED E CHARGING shall include Site Host as additional insured on its commercial general liability and umbrella insurance policies. RED E CHARGING will also carry worker's compensation insurance in accordance with state and federal law.
17. **CONFIDENTIALITY AND PUBLICITY:** Neither Party will use the other Party's name, trademark or logo without such other Party's prior written consent.
18. **ENVIRONMENTAL MATTERS:** To the best of Site Host's knowledge, Site Host believes that the Premises shall be delivered free of environmental contamination. RED E CHARGING shall have no liability for any environmental contamination unless caused by RED E CHARGING, its agents, employees or contractors.

19. **NOTICES:** All notices or demands shall be in writing and shall be deemed duly served or given only if delivered by prepaid (i) U.S. Mail, certified or registered, return receipt requested, or (ii) reputable, overnight courier service (such as UPS or FedEx) to the addresses of the respective parties as specified in this Section. Copies of such correspondence shall be delivered via email as well as a courtesy if an email address is provided, but email notification does not suffice as effective notice for the purpose of this Agreement. Site Host and RED E CHARGING may change their respective addresses for notices by giving notice of such new address in accordance with the provisions of this paragraph.

If by Site Host, to:

If by RED E CHARGING, to:

Contact Name: Kevin Kardel

Contact Name: Bryan Myrkle

Position: Chief Operating Officer

Position: Community Development Director

Address: 2475 West Grand Blvd, Detroit, MI 48208

Address: 111 E. Lawrence Ave., Charlotte, MI 48813

Email Address: kkardel@hageauto.com

Email Address: bmyrkle@charlottemi.org

20. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon and shall inure to the benefit of Site Host and RED E CHARGING and their respective successors and assigns.

21. **WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY LAW, SITE HOST AND RED E CHARGING EACH HEREBY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY ISSUE OR CONTROVERSY ARISING UNDER THIS AGREEMENT.

22. **GOVERNING LAW, JURISDICTION AND VENUE:** Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan without giving effect to any choice or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Michigan. Any legal suit, action or proceeding arising out of this Agreement or the matters contemplated hereunder shall be instituted in state court in Eaton County in the State of Michigan, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding and waives any objection based on improper venue or inconvenient forum. Service of process, summons, notice

or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

23. **VOLUNTARY AND INFORMED EXECUTION:** The Parties acknowledge and agree that they have fully read, completely understand and voluntarily enter into and execute this Agreement, and acknowledge they have been represented and advised by counsel or had ample opportunity to be represented by counsel during the negotiations and drafting of this Agreement.
24. **AMENDMENT.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party hereto.
25. **SEVERABILITY.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, the Parties agree that such provision shall be adjusted or modified by the court to the extent necessary to cure that invalidity, and that such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

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IN WITNESS WHEREOF, the Parties hereto have each caused an authorized representative to execute this Agreement as of the Effective Date first written above.

RED E CHARGING, LLC

SITE HOST

By:

Its:

By:

Its:

EXHIBIT A

PREMISES DEPICTION AND ADDRESS

EXHIBIT B

SIGNAGE

