



## DESTINATION PARTNER TERMS AND CONDITIONS

These Terms and Conditions (hereinafter referred to as the "**Destination Partner Terms**") shall apply to and govern the installation, operation, and maintenance of Electric Vehicle Charging Stations ("EVCS") at site locations mutually agreed upon by Lynkwell (referred to as the "**Operator**") and the person, company, partnership, or legal entity (referred to as the "**Destination Partner**" and collectively referred to as the "**Parties**"). These Destination Partner Terms are incorporated by reference into, and shall apply in conjunction with, the proposal, statement of work, letter of understanding, or any similar document executed by the Parties (collectively, the "**Agreement**"). Execution of the Agreement by the Destination Partner constitutes acceptance of, and agreement to be bound by, these Destination Partner Terms, which shall take effect upon execution of the Agreement.

The Agreement, together with these Destination Partner Terms, defines the respective rights, obligations, and responsibilities of the Parties, as well as the designated area of land (the "**Premises**") where the EVCS will be installed, operated, and maintained.

**TERM:** The term of the Agreement shall begin on the date the Agreement is executed and will continue for an additional Ten (10) years (the "**Term**") when the EVCS is installed and fully operational.

- 1) **PREMISES:** The Premises as described and mutually agreed upon in the Agreement, is defined as the footprint of the EVCS equipment only and does not include Destination Partner owned common area or utility owned infrastructure.
- 2) **RENEWALS:** Destination Partner hereby grants Operator additional terms to renew the Agreement each additional term for a period of five (5) years. Each said renewal term shall be exercised by Operator notifying Destination Partner, thereof in writing, not more than three (3) months and at least one (1) month prior to the expiration of the then current agreement or renewal term, as the case may be.
- 3) **PREMISE USE:** Both Parties will work together in good faith to ensure Premises are being used as described herein. Operator is only permitted to utilize the Premises as described herein and has the sole right to utilize the Premises to provide charging and related services, advertise those services, and collect related payment; and is not permitted to sublet to another party without the Destination Partner written consent. The Destination Partner shall not take any action that would impair or interrupt the use of the Premises. In the event of a sale or transfer of the Property or Premises by the Destination Partner during the Term of the Agreement, the Operator's rights shall be conveyed with the Property or Premises. Operator may assign the Agreement to a successor to Operator by merger, consolidation or the purchase of substantially all of Operator's assets, or by selling or transferring the EVCS located on the Premises, without the consent of Destination Partner, provided that the following conditions are satisfied (a "**Permitted Transfer**"): (i) Operator is not then in Default hereunder; and (ii) Operator gives Destination Partner written notice prior to such Permitted Transfer.
- 4) **CONSTRUCTION & OPERATION:** Operator shall, at its sole expense, construct improvements, as described in the statement of work, to be used solely by Operator for operation of EVCS and may include future-proofing, supporting equipment if determined

necessary such as security cameras, energy storage, and photovoltaic generation systems, for the Term of and as described in the Agreement. Both Parties agree to coordinate maintenance and construction activities to minimize disruption to the Premises and surrounding area and ensure EVCS are always accessible. Destination Partner agrees to notify Operator within a reasonable time if (a) it has knowledge of third parties impairing or misusing the Premises or EVCS, or (b) it obtains knowledge of a needed repair to the EVCS. If driver who do not utilize the EVCS repeatedly park in the parking spaces in the Premises, thereby impairing use of the EVCS, 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. The Destination Partner shall use reasonable efforts to actively monitor the Premises to ensure that use of the EVCS is not impaired.

- 5) **RELOCATION:** The Destination Partner shall have the right to relocate the Premises, provided that the costs of relocation shall be borne by Destination Partner, and that the new EVCS are open to the public before the former EVCS are decommissioned.
- 6) **APPROVALS:** As it pertains to the improvements and use described in the Agreement, Operator shall be responsible for obtaining all necessary consents, permits, program approvals, or utility agreements for use of the Premises as described herein, and comply with applicable codes, laws, and ordinances. In the event Operator does not have authorization to obtain such described approvals from an entity or jurisdiction, the Destination Partner shall provide written consent, not unreasonably withheld, conditioned, or delayed, and at no additional cost to Operator, to enable Operator to use the Premises as agreed upon herein. Copies of all approved work permits, and site plans shall be provided to the Destination Partner.
- 7) **UTILITY:** Operator shall establish a separate meter for the EVCS. Utility costs for the separate meter resulting from EV Charging related activity at the Premises during the Term of the Agreement are the sole responsibility of the Operator. Operator shall provide to the Destination Partner the utility plan for approval prior to submitting to the electric company or municipality.
- 8) **MAINTENANCE:** Operator shall be responsible for maintaining the EVCS for the Term of the Agreement, with the Destination Partner incurring no liability pertaining to the maintenance of the EVCS or Premises. The Destination Partner shall be responsible for ordinary maintenance including but not limited to landscaping, debris/garbage removal, sweeping, or snow removal of the common property such as curbs, sidewalks, crosswalks, or parking spaces which surround the Premises.
- 9) **LIMITATION ON LIABILITY:** Destination Partner cannot be held liable for the EVCS, the operation or maintenance thereof, any issues which may arise from use thereof, or consequential damages which may occur as a result of the Operator's use of the Premises. Operator is not liable for issues or damages which may occur as a result of the Destination Partners' use of the property surrounding the Premises.
- 10) **INSURANCE:** Operator shall carry commercial general liability insurance in a minimum amount of \$1,000,000 and shall include Destination Partner as additional insured for the Term of the Agreement.
- 11) **OWNERSHIP:** All improvements, including but not limited to electric vehicle charging stations, related equipment, signage, and any other fixtures installed on the leased premises (hereafter referred to as "Improvements"), shall be the property of the Operator during the

term of this Lease. Operator will additionally retain ownership of any applicable Incentives. For the Agreement, Incentive means (a) electric vehicle charging or renewable energy credits, or certificates, carbon credits and any similar environmental or pollution allowances, credits or reporting rights, (b) rebates or other payments based in whole or in part on the cost or size of equipment, (c) performance-based incentives paid as periodic payments, (d) tax credits, grants or benefits, and (e) any other attributes, commodities, revenue streams or payments, in each of (a) through (e) under any present or future law, standard or program and whether paid by a utility, private entity or any governmental, regulatory or administrative authority. associated with the EVSE improvements made at each location for the length of the term

12) **INDEMNIFICATION:**

- a. Except for the gross negligence, willful misconduct, or bad faith of Destination Partner, Operator shall indemnify and hold Destination Partner and its shareholders, directors, officers, partners, employees, and agents ("**Destination Partner Indemnified Parties**") harmless from and against:
  - i. all losses, liabilities, damages, judgments, claims, or causes of action ("**Claims**") against Destination Partner and Destination Partner Indemnified Parties directly arising from any act, omission (where Operator has a duty to act), or negligence of Operator or its contractors, licensees, agents, servants, employees, invitees, or visitors ("**Operator Parties**");
  - ii. all Claims against Destination Partner and Destination Partner Indemnified Parties arising from any accident, injury, or damage taking place during the construction of Operator Improvements that is claimed to have resulted from an act, omission, or negligence of Operator or Operator Parties;
  - iii. all Claims against Destination Partner and Destination Partner Indemnified Parties arising from any accident, injury, or damage whatsoever caused by any act, omission (where Operator has a duty to act), or negligence of Operator or Operator Parties to any person or to the property of any person and occurring in or about the Premises during the Term of the Agreement;
  - iv. all Claims against Destination Partner or Destination Partner Indemnified Parties arising from any accident, injury, or damage occurring outside of the Premises but anywhere within or about the Property, where such accident, injury, or damage results or is claimed to have resulted from an act, omission, or negligence of Operator or Operator Parties;
  - v. any breach, violation, or non-performance of any terms in this Agreement set forth and contained on the part of Operator to be fulfilled, kept, observed, and performed.
- b. Except for gross negligence, willful misconduct, or bad faith of Operator, Destination Partner shall indemnify and hold Operator and its shareholders, directors, officers, partners, employees, invitees, and agents (the "**Operator Indemnified Parties**") harmless from and against all claims against Operator Indemnified Parties arising from:
  - i. all Claims against Operator and Operator Indemnified Parties arising from any accident, injury, or damage taking place during the construction of Operator Improvements that is claimed to have resulted from an act, omission, or negligence of Destination Partner or Destination Partner Parties;

- ii. any damage to the Premises arising from any act, omission, or negligence of Destination Partner or its contractors, licensees, agents, servants, employees, invitees, or visitors ("**Destination Partner Parties**");
    - iii. any bodily injury or death or damage to any personal property arising from any act, omission, negligence, willful misconduct, or bad faith of Destination Partner or Destination Partner Parties located on the Property [related to Destination Partner's management of the Property];
    - iv. a default by Destination Partner under this Agreement.
  - c. Indemnity under this clause shall include indemnity from and against any and all liability, fines, suits, demands, costs, and expenses of any kind or nature (including, without limitation, [reasonable] attorneys' fees and disbursements) incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. If any indemnified party is taxable upon the receipt of any payments received regarding any of the indemnities under the Agreement, the sum due in respect of such payment shall be increased to the extent necessary to ensure that after being taxed the indemnified party receives and retains a net sum equal to the sum it would have received and retained had the payment not been taxable to that indemnified party.
  - d. Additionally, both Parties hereby agree to indemnify and hold the other harmless from any claims of commissions or fees relating to the execution of the Agreement.
  - e. The indemnified shall provide prompt notice to the indemnifying party of any potential Claims required to be indemnified under this Agreement. The indemnified party shall not take any action that may prejudice the indemnifying party's defense of any Claims.
- 13) **PUBLICITY:** The Operator may advertise the EVCS's and related services at the Premises as it relates to allowed uses within the Agreement. Outreach events, training, advertising, and marketing pertaining to the Premises by the Operator only when occurring on-site are authorized but must be coordinated with and approved by the Destination Partner.
- 14) **NOTICES:** All official communications shall be in writing and deemed given if delivered by prepaid (i) U.S. Mail, certified, registered, return receipt requested, or (ii) overnight courier service to the address the other party as specified herein. Both Parties may change their respective addresses for notices by giving notice of such new address in accordance with this provision.
- 15) **GOVERNING LAW:** The Agreement shall be governed by the laws of the State where Premises are located.
- 16) **COMPLETE AGREEMENT:** These Destination Partner Terms, Lynkwell's Standard Terms and Conditions, and the Agreement constitutes the entire agreement between both Parties hereto with respect to the matters contained herein and can only be altered by written Agreement and execution from both Parties. Changes to the Agreement may be made and executed upon without revision to the Agreement.
- 17) **EARLY TERMINATION:** Termination of the Agreement which includes the specific site as referenced in the Site Map/Scope of Work, can only be requested after the 5<sup>th</sup> year of Term of the Agreement due to utility requirements. If termination is requested by the Destination Partner prior to the end of the original Term of 10 years, then Operator will immediately generate a quote for removal of the EVCS and repair of the premises as requested by the Destination Partner. Costs associated with early removal of the chargers, and any restoration work will be borne by Destination Partner.

- 18) **NON-RENEWAL TERMINATION:** If the Destination Partner requests not to renew the Agreement after the initial ten (10) year term then Destination Partner may request for the removal of EVCS and reasonable restoration of the property. Costs associated with the removal of the EVCS, and reasonable restoration of the property in this instance will be borne by the Operator.
- 19) **DEFAULT:** Either party may be found in default (“**Defaulting Party**”) due to (i) the Defaulting Party’s inability to perform any of its obligations hereunder or fails to comply with any of the material terms and conditions hereof and strictly as it pertains to the Agreement; or (ii) the Defaulting Party becoming insolvent or bankrupt. In either case, the Defaulting Party has sixty (60) days to cure the default after the receipt of written notice thereof. The default will be considered cured upon delivery of written notice by the Defaulting Party describing the implemented measures resulting in resolution and providing evidence of the resolution, and the Agreement will persist according to the Term herein. If the default is not cured within the allotted timeframe, the other party may choose to either continue the Agreement and Agreement or Terminate the Agreement forthwith upon written notice to the Defaulting Party.
- 20) **SEVERABILITY:** If any term or provision of the Agreement is deemed to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or provision of the Agreement.