

ELECTRIC VEHICLE PUBLIC CHARGING PILOT SERVICE AGREEMENT

THIS ELECTRIC VEHICLE PUBLIC CHARGING PILOT SERVICE AGREEMENT (the “Agreement”), made this _____ day of _____, _____ (“Effective Date”) by and between NORTHERN STATES POWER COMPANY, a Minnesota corporation, doing business as Xcel Energy (“Xcel Energy”), 414 Nicollet Mall, Minneapolis, Minnesota 55401, and _____ (“Customer”) engaged in the business of _____. Customer and Xcel Energy may be referred to herein individually as a “Party” or collectively as the Parties.

WITNESSETH: That the parties hereto, each in consideration of the promises of the other in this Agreement, agree as follows:

1. Definitions

- “Applicable Laws” means all applicable federal and state laws, codes, ordinances, rules, regulations, judgments, decrees, directives, guidelines, policy requirements, and orders of any governmental person having jurisdiction over the Pilot Project, the practices involved in the Pilot Project, or any work Xcel Energy or Customer performs.
- “Calendar Days” means every day shown on the calendar, beginning and ending at midnight.
- “Charging Equipment” means the electric vehicle charging equipment installed by Customer at the Customer Location used to deliver electricity from the EV Supply Infrastructure to an electric vehicle. Charging Equipment includes the ungrounded, grounded, and equipment grounding conductors, the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets or apparatuses associated with the installed device, but does not include EV Supply Infrastructure.
- “Charging Station” means a station consisting of all Charging Equipment which, when connected to the EV Supply Infrastructure, is collectively as a unit required to deliver EV charging services to Consumers at the Customer Location.
- “Consumer” means an individual who uses the Charging Equipment at the Customer Location to charge an electric vehicle.
- “Customer Location” means _____

_____.
- “DCFC Charging Equipment” means Charging Equipment capable of delivering at least 50 kW via direct current using both CHAdeMO and SAE CCS charging connectors.
- “Dispute” means a disagreement between Xcel Energy and Customer that arises under or that relates to the Agreement.
- “EV Supply Infrastructure” means all the electric vehicle charging infrastructure (excluding the Charging Equipment) and all associated equipment installed by Xcel

Energy at the Customer Location necessary to connect the Charging Equipment to Xcel Energy's electric distribution system, and includes but is not limited to the following: poles, conduits, ducts, cables, concrete pads, manholes, handholes, supporting foundations, switchboards, and electrical wiring and conduit between the transformer, main power distribution cabinet, and Charging Equipment.

- "Facilities" means any privately, publicly, or cooperatively owned line, system, and or other utility item that produces, transmits, or distributes communications, power, cable, television, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, signal systems, and other products or services that serve the public, and/or a privately-owned irrigation system. Any necessary appurtenances to each Facility are considered a part of it.
- "Force Majeure Event" means fire, floods, explosion, catastrophe, accident, declared war, riot, acts of God, acts of terrorism, insurrection, strike, and applicable laws that prevent performance, to the extent (i) such event is beyond a Party's control, that due diligence and use of reasonable efforts by the Party claiming the Force Majeure Event could not have avoided or prevented, (ii) that materially and adversely affects a Party's ability to meet its obligations under this Agreement, and (iii) the Party claiming the Force Majeure Event gives prompt written notice of the same to the other Party. A Force Majeure Event does not include events due to the acts or omissions of the Party claiming the Force Majeure Event.
- "Not Public Data" has the same definition as under Minn. Stat. § 13.02, subd. 8a, and means any Customer or Xcel Energy data which is classified by statute, federal law, or temporary classification as confidential, private, nonpublic, or protected nonpublic.
- "Pilot Project" means the activities of both Parties during the Term that relate to the installation and ongoing maintenance of EV Supply Infrastructure and Charging Equipment to support EV charging by Consumers at the Customer Location.
- "Working Days" means any Calendar Day, excluding Saturdays, Sundays, and legal public holidays, as set forth in 5 U.S.C. § 6103(a).

2. Eligibility and Availability

2.1 To be eligible to participate in the Pilot Project and prior to Xcel undertaking any Xcel Energy responsibility set forth in Section 4, Customer must provide documentation acceptable to Xcel Energy evidencing that Customer meets all of the following requirements (the "Customer Requirements"):

2.1.1 Qualify as a non-residential customer;

2.1.2 Own or lease the Customer Location, or be Xcel Energy's customer of record associated with the premises electric service meter at the Customer Location;

2.1.3 Provide express written consent, in a form acceptable to Xcel Energy in its sole discretion, from the owner of the Customer Location to grant Xcel Energy the appropriate real property rights and continuous access to EV Supply Infrastructure installed, owned, and maintained by Xcel Energy,

including any necessary license agreements or easements signed by the owner of the Customer Location and approved by Xcel Energy;

- 2.1.4 During the Term, agree to take electric service to the Charging Stations on Xcel Energy's published A90 rate, or any rate that replaces the A90 rate;
 - 2.1.5 Agree to install and maintain at the Customer Location during the Term at least one Charging Station with DCFC Charging Equipment, at Customer's sole cost and expense;
 - 2.1.6 Ensure all Charging Station electric load is separately metered from any other load served at the Customer Location; and,
 - 2.1.7 Provide proof, acceptable to Xcel Energy in its sole determination, that Customer has purchased and has the ability, financial, technical or otherwise, to install Charging Stations that meet Xcel Energy's technical and safety standards, including that DCFC Charging Equipment meets requirements for Minnesota's Diesel Replacement program, and that have smart-charging capabilities.
- 2.2 To be eligible to participate in the Pilot Project, the Customer Location must provide documentation acceptable to Xcel Energy evidencing that Customer meets the following requirements (the "Customer Location Requirements"):
- 2.2.1 Be located in Xcel Energy's service territory and on corridors or in in high-utilization areas, as determined by Xcel Energy in its sole discretion;
 - 2.2.2 Be located in public places that generally allow for access twenty-four (24) hours each day, seven (7) days each week;
 - 2.2.3 Meet Xcel Energy's minimum safety, accessibility, convenience, and reliability requirements;
 - 2.2.4 Include a location acceptable to Xcel Energy, in Xcel Energy's sole determination, to deploy Charging Stations in a cost-effective manner, based on factors such as proximity to transformers, length of trenching, available transmission and distribution capacity, and ease of access for electric vehicle drivers, as determined by Xcel Energy in its sole discretion.

3. Customer Responsibilities

- 3.1 Except for the costs incurred by Xcel Energy to undertake the responsibilities set forth in Section 4 of this Agreement, Customer will pay all other costs of the Pilot Project.
- 3.2 Customer will assist in coordinating installation and maintenance of the EV Supply Infrastructure at the Customer Location with Xcel Energy and its contractor(s), including any applicable Charging Equipment manufacturers, vendors, or subcontractors, who provide services in connection with installing

and maintaining the EV Supply Infrastructure. This will include issuing or obtaining any necessary license to allow Xcel Energy and its contractor(s) access to the Customer Location for the installation and maintenance of the EV Supply Infrastructure. Customer will also meet regularly with Xcel Energy to review and coordinate time schedules and track EV Supply Infrastructure and Charging Equipment installation status.

- 3.3 Customer will be responsible for the procurement of all necessary Charging Equipment for the Pilot Project at the Customer Location that meet the Customer Requirements within thirty (30) Calendar Days of the Effective Date, and shall provide proof of such purchase to Xcel Energy. Failure to provide proof of purchase within thirty (30) Calendar Days after the Effective Date will void any of Xcel Energy's obligations under Section 4 of this Agreement, and Xcel Energy may terminate, in its sole discretion, this Agreement immediately upon written notice to Customer in the event of such failure.
- 3.4 Customer will provide Xcel Energy with accurate and complete information regarding the Pilot Project in order to permit Xcel Energy to successfully install and complete the EV Supply Infrastructure for the Pilot Project. Customer consents to and permits Xcel Energy and its contractor(s), including any applicable Charging Equipment manufacturers, vendors, and subcontractors, who provided services in connection with installing and maintaining the EV Supply Infrastructure, to have remote access in order to access, collect, and share data from the Charging Equipment with respect to charging activity, vehicle usage, and technical performance (the "Data") during the Term of this Agreement. In addition to the Data, Customer agrees to provide to Xcel Energy the following information:
- (1) on an annual basis: (a) number of charging ports at the Customer Location, and individual port capacities; (b) costs to install Charging Equipment; (c) rates and fees charged to end-use customers, and if rates changed during the year, when particular rates were in effect; and (d) any public and/or private funds leveraged to install or maintain the Charging Equipment;
 - (2) on a monthly basis: (a) number of charging events, times, and durations, if the Charging Equipment is capable of providing such information; and (b) percentage of charging that aligns with onsite generation at Customer Location, if applicable; and
 - (3) any other information relating to the Charging Equipment and its usage that Xcel Energy may request from time to time.

Except for information or documents properly designated by Customer as "Not Public Data," Xcel Energy shall not be prohibited or restricted from disclosure or use of any Data, information, or documents it receives from Customer, nor is Xcel Energy prohibited or restricted from disclosing "Not Public Data" in connection with any legal or regulatory proceeding, provided Xcel Energy provides Customer with notice pursuant to Section 7.9.

- 3.5 Customer will pay for power consumed by the EV Supply Infrastructure and dispensed from the Charging Equipment at Xcel Energy's A90 service rate schedule, or any subsequent service rate schedule which replaces or modifies the A90 service rate schedule. If at any point during the Term Xcel Energy's public charging pilot is taken to scale as a program with terms different from the A90 service rate schedule, or if the A90 service rate schedule is modified for any reason, Customer may switch to the modified tariff for the remainder of the Term, and Customer shall pay for power consumed by the EV Supply Infrastructure and/or dispensed from the Charging Equipment at such modified tariff upon the effective date of the new tariff.
- 3.6 The rates Customer will charge Consumers for using the Charging Equipment at Customer Location will reflect the on-peak and off-peak time periods of the A90 service rate schedule, or any subsequent service rate schedule, and will include an energy rate differential ratio of at least 2:1. Customer may opt out of this default arrangement at its discretion to set pricing that reflects other considerations or needs, provided that the prices Customer charges to Consumers are reported to Xcel Energy as set forth in Section 3.5.
- 3.7 After installation of both the Charging Equipment and EV Supply Infrastructure is completed, Customer will operate and maintain the Charging Equipment at the Customer Location for the Term of this Agreement, and guarantees the safe and reliable operation of the Charging Equipment in accordance with applicable laws, rules and regulations. During the Term, Customer grants Xcel Energy, and its officers, agents, representatives, employees, and contractors a right of ingress, egress, and physical disturbance to the Customer Location on a seven (7) day, twenty-four (24) hour per day basis as required to construct, install, maintain, operate, repair, and remove EV Supply Infrastructure in accordance with the provisions of this Agreement. The general manner of such ingress and egress is subject to coordination with Customer.
- 3.8 After installation of both the Charging Equipment and EV Supply Infrastructure is completed, Customer will make the Charging Equipment at Customer Location available to the public for EV charging twenty-four (24) hours each day, seven (7) days each week, except at times when the Charging Equipment or EV Supply Infrastructure fails to operate or otherwise requires repair. Customer guarantees the Charging Equipment at Customer Location will be in full working order and available to the public for EV charging at least 95% of the time annually.
- 3.9 Customer will promptly notify Xcel Energy in the event Customer becomes aware that the Charging Equipment or EV Supply Infrastructure fails to operate or otherwise requires repair.
- 3.10 In the case of total equipment failure of all or a portion of the EV Supply Infrastructure, that is caused by Customer, any of Customer's employees, agents, or partners, or any Consumers, and not covered by a manufacturer's warranty, Customer may either request that Xcel Energy replace the necessary equipment at Customer's expense or terminate this Agreement pursuant to Section 5.1.

- 3.11 Customer will maintain the area surrounding the EV Supply Infrastructure, including, but not limited to, pavement maintenance, pruning of vegetation, snow removal, and the repair of security lighting.
- 3.12 Customer may remedy minor issues with the EV Supply Infrastructure that do not require qualified technicians to address, such as resetting infrequently tripped circuit breakers.
- 3.13 Customer will participate in surveys initiated by Xcel Energy and provide feedback about the Pilot Project. Customer will permit Xcel Energy to conduct surveys of Consumers using the Charging Infrastructure related to end-user satisfaction of the Pilot Project, and electric vehicles and electric vehicle charging infrastructure in general. Xcel Energy may freely use such feedback without restriction.

4. Xcel Energy Responsibilities

- 4.1 Xcel Energy and/or qualified and competent contractors hired by Xcel Energy will prepare construction drawings ("Construction Drawings") for the EV Supply Infrastructure at location(s) within the Customer Location determined by Customer in coordination with Xcel Energy. The Construction Drawings will show the proposed EV Supply Infrastructure and its location(s) within the Customer Location. Prior to Xcel Energy commencing construction of the EV Supply Infrastructure, Customer must approve the Construction Drawings. Once approved, the Construction Drawings may be modified only with the mutual consent of both Parties.
- 4.2 Xcel Energy will prepare and coordinate the EV Supply Infrastructure installation schedule ("Installation Schedule") with designated Customer staff as to minimize disruption to Customer's operations. Xcel Energy will also meet regularly with Customer staff to review and coordinate time schedules and track EV Supply Infrastructure status. Prior to Xcel Energy commencing construction of the EV Supply Infrastructure, Customer must approve the Installation Schedule. Once approved, the Installation Schedule may be modified only with the mutual consent of both Parties.
- 4.3 Xcel Energy will install the EV Supply Infrastructure pursuant to the Installation Schedule and consistent with the Construction Drawings in a good and workmanlike manner, with qualified and competent contractors, in compliance with all applicable codes and engineering standards, and in compliance with all Applicable Laws.
- 4.4 Xcel Energy will retain title and ownership of the EV Supply Infrastructure once installation and commissioning are completed. Customer shall acquire no right, title, or interest in any portion of the work performed by Xcel Energy or Xcel Energy's equipment, EV Supply Infrastructure or Facilities unless transferred to Customer under the provisions in Section 5. The work constructed and installed by Xcel Energy shall be and remain the personal property of Xcel Energy, shall not be considered a fixture of the property, shall not attach to the realty, and shall

not be alienable or lienable by Customer or any third party for the Term of this Agreement, and Customer shall not allow lien claims, third party interest or any encumbrances to be placed on the work and/or EV Supply Infrastructure. Xcel Energy shall not permit any mechanics' or other liens to be placed on Customer property during the Term of this Agreement caused by or resulting from any work performed, material, or supplies furnished by or at the request of Xcel Energy or its contractors.

- 4.5 Xcel Energy shall own, operate, and maintain at its own expense the EV Supply Infrastructure at the Customer Location for the Term of this Agreement, unless terminated earlier as provided herein. Xcel Energy may engage one or more third-party contractors to complete its obligations under this Agreement. Xcel Energy shall not knowingly award contracts to contractors who have been or are suspended or debarred by the State of Minnesota or the United States. Xcel Energy shall be responsible for supervising any third-party contractor it chooses to retain.
- 4.6 After installation of, and while Xcel Energy owns the EV Supply Infrastructure, Xcel Energy shall conduct emergency repairs on the EV Supply Infrastructure on an as needed basis in accordance with the following:
 - 4.6.1 Requests for emergency repairs can be made by Customer or Xcel Energy staff.
 - 4.6.2 Customer's requests for repair shall be made via telephone, email, or text message to an agreed-upon representative at Xcel Energy.
 - 4.6.3 All emergency repairs shall be completed by qualified technicians selected by Xcel Energy.
 - 4.6.4 Emergency repair service calls shall begin with inspection of malfunctioning EV Supply Infrastructure, a diagnosis of the potential issue, and an expected time required for repair.
 - 4.6.5 Xcel Energy shall use commercially reasonable efforts to repair the EV Supply Infrastructure in a timely manner.
 - 4.6.6 If the EV Supply Infrastructure cannot be repaired within one hour of the service technician's arrival, Customer shall be notified and given an estimated time the equipment is anticipated to be repaired.
- 4.7 After installation of, and while Xcel Energy owns the EV Supply Infrastructure, Xcel Energy may inspect the EV Supply Infrastructure at the Customer Location for general wear or malfunction on a periodic basis as determined by Xcel Energy. Such inspection may include, but is not limited to the following:
 - 4.7.1 Xcel Energy shall have the right, but not the obligation, to inspect the Charging Equipment for initial and ongoing integration with the EV Supply Infrastructure.

- 4.7.2 If periodic inspections reveal EV Supply Infrastructure failure, Xcel Energy shall request on-site technical services for inspection, diagnosis and emergency repair as set forth in Section 4.6.
- 4.8 Xcel Energy shall be responsible for the cost of purchasing and installing the EV Supply Infrastructure. Xcel Energy shall also be responsible for all costs that Xcel Energy, in its sole discretion, deems reasonably required for operating and maintaining the EV Supply Infrastructure (except that Customer will pay for all power consumed by the EV Supply Infrastructure and/or dispensed from the Charging Equipment, and any costs required under Section 3.10). All payments for this EV Supply Infrastructure will be made directly by Xcel Energy to the third-party contractor retained to complete the work, and Xcel Energy will have no financial obligation for any payments to Customer.
- 4.9 Xcel Energy will promptly notify Customer in the event Xcel Energy becomes aware that the EV Supply Infrastructure fails to operate or otherwise requires repair.
- 4.10 In the case of total equipment failure of all or a portion of the EV Supply Infrastructure, that is not caused by Customer, any of Customer's employees, agents, or partners, or any Consumers, and not covered by a manufacturer's warranty, Xcel Energy may either replace the necessary equipment at Xcel Energy's expense or terminate this Agreement pursuant to Section 5.1.

5. Term and Termination

- 5.1 This Agreement shall be effective upon the Effective Date. The term of this Agreement (the "Term") shall be for a ten (10) year period from the Effective Date. Either Party may terminate this Agreement for any reason or no reason, without cause, at any time by providing the other Party sixty (60) Calendar Days prior written notice. If Customer terminates this agreement pursuant to this Section 5.1, Xcel Energy shall sell to Customer and Customer shall buy all EV Supply Infrastructure, on an "as is" basis, without any warranty (express or implied), at the undepreciated balance of the EV Supply Infrastructure, as reasonably determined by Xcel Energy based on Xcel Energy's cost to purchase and install the EV Supply Infrastructure and the expected lives of the components of the EV Supply Infrastructure as of the date of termination. If Xcel Energy terminates this Agreement pursuant to this Section 5.1, Xcel Energy shall transfer title of the EV Supply Infrastructure to Customer, without any payment from Customer, and the EV Supply Infrastructure will be deemed abandoned in place in "AS IS" condition, without any warranty (express or implied) by Xcel Energy.
- 5.2 Either Party may terminate this Agreement if the other party materially breaches any of its obligations under the Agreement.
- 5.2.1. Prior to termination pursuant to this Section 5.2, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within thirty (30) Calendar Days of the notice (or, if the breach is not one that can be reasonably cured within thirty (30) Calendar

Days, and if the breaching Party is not working diligently to cure such breach), then the Party giving the notice may terminate the Agreement without reference to Section 5.1 at any time thereafter by giving a written notice of termination.

- 5.2.2. If Customer terminates pursuant to this Section 5.2 for Xcel Energy's material breach of the Agreement, Xcel Energy shall transfer title of the EV Supply Infrastructure and Optional Charging Equipment, as applicable, to Customer, without any payment from Customer, and the EV Supply Infrastructure and Optional Charging Equipment will be deemed abandoned in place in "AS IS" condition, without any warranty (express or implied) by Xcel Energy.
- 5.2.3. Xcel Energy terminates pursuant to this Section 5.2 for Customer's material breach of the Agreement, Customer shall buy all EV Supply Infrastructure and Optional Charging Equipment, as applicable, on an "as is" basis, without any warranty (express or implied), at the undepreciated balance of the EV Supply Infrastructure and any Optional Charging Equipment, as reasonably determined by Xcel Energy based on Xcel Energy's cost to purchase and install the EV Supply Infrastructure and Optional Charging Equipment and the expected lives of the components of the EV Supply Infrastructure and Optional Charging Equipment as of the date of termination.
- 5.2.4. A party terminating this Agreement pursuant to this Section 5.2 does not waive its rights to any remedy at law or in equity for a material breach of the Agreement.
- 5.3 At least one hundred and eighty (180) Calendar Days prior to the end of the Term of this Agreement, the Parties shall endeavor to negotiate a mutually agreeable plan for the EV Supply Infrastructure that will commence at the end of the Term of this Agreement, including but not limited to the following:
 - 5.3.1 Extension of the Term of this Agreement;
 - 5.3.2 Customer pays Xcel Energy an amount equivalent to the undepreciated balance of the EV Supply Infrastructure (based on Xcel Energy's cost to purchase and install the EV Supply Infrastructure and the expected lives of the components of the EV Supply Infrastructure) as of the end of the Term of the Agreement, and title to the EV Supply Infrastructure transfers to Customer in "AS IS" condition, without any warranties (express or implied) by Xcel Energy; or
 - 5.3.3 Xcel Energy removes, at Xcel Energy's expense, the portion of the EV Supply Infrastructure that is above ground, restoring the Customer Location to original conditions or any other conditions agreed upon by the Parties, and Xcel Energy retains Title to the remaining portion of the EV Supply Infrastructure (the "Remaining EV Supply Infrastructure"), and such easement rights as Xcel Energy may require for the operation, repair, and maintenance of the Remaining EV Supply Infrastructure for the remainder of its expected life. At the end of the Remaining EV Supply

Infrastructure's expected life, Xcel Energy shall transfer title of the Remaining EV Supply Infrastructure to Customer, without any payment from Customer, and the Remaining EV Supply Infrastructure will be deemed abandoned in place in "AS IS" condition, without any warranty (express or implied) by Xcel Energy.

- 5.4 If, at the end of the Term of this Agreement, the Parties have not come to a mutual agreement pursuant to Section 5.3 above, the Term of the Agreement shall automatically renew on a month-to-month basis until the Parties are able to come to a mutual agreement or until either Party unilaterally terminates the Agreement pursuant to Section 5.1.
- 5.5 Upon termination of this Agreement, in order to continue receiving electric service for a Charging Station, Customer must sign a new electric service agreement agreeing to take electric service pursuant to a tariff for which the Customer is then eligible.

6. Warranties, Indemnification, and Limitation of Liability

- 6.1 Customer represents and warrants that: (i) the execution, delivery and performance of the Agreement has been duly authorized by all requisite action on the part of Customer, and Customer has full power and authority to grant the rights and licenses granted by the Agreement to Xcel Energy, including but not limited to the rights and licenses set forth in Section 3.2; (ii) this Agreement constitutes the legal, valid, and binding obligation of Customer; (iii) Customer is and will remain duly licensed, authorized or qualified to do business, and in good standing; and (iv) it is and will remain in compliance with all Applicable Laws applicable to it in connection with performance under this Agreement.
- 6.2 Xcel Energy, itself or through its contractor(s), shall perform the installation of the EV Supply Infrastructure in a safe and professional manner in accordance with all Applicable Laws. **EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 6.1, XCEL ENERGY MAKES OR PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AGAINST INFRINGEMENT, WITH RESPECT TO THE WORK TO BE PERFORMED, SERVICES TO BE PROVIDED, OR EV SUPPLY INFRASTRUCTURE TO BE DELIVERED UNDER THIS AGREEMENT. IN THE EVENT TITLE TO EV SUPPLY INFRASTRUCTURE IS TRANSFERRED TO CUSTOMER IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, THE EV SUPPLY INFRASTRUCTURE IS PROVIDED "AS IS" AND WITH NO WARRANTY OF ANY KIND. XCEL ENERGY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 6.3 **IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL XCEL ENERGY BE LIABLE TO CUSTOMER AND ITS AGENTS, CONSUMERS, CONTRACTORS AND EMPLOYEES, FOR SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE.**

- 6.4 Subject to the limitations contained in this Agreement, each Party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by Applicable Laws and shall not be responsible for the acts of the other Party and the results thereof. Xcel Energy does not assume any responsibility for the adequacy, safety, design or satisfactory performance of the Facilities, Customer's design of any EV Supply Infrastructure, or the Charging Equipment. Notwithstanding the foregoing, to the fullest extent allowed by Applicable Laws, Customer shall, at its own expense, defend, indemnify and hold Xcel Energy harmless from and against any claims, lawsuits, liability, losses, damages or expenses (including attorney's fees) arising out of, resulting from or in any way connected with the: (i) the Charging Equipment; (ii) breach of any warranty set forth in Section 6.1; (iii) Customer's, or its employees', agents', contractors' or Consumers' negligent acts or omissions or willful misconduct; or (iv) the breach of Section 3.2 (License).
- 6.5 In no event will Xcel Energy be liable to Customer for any claims, expenses, losses, damages, or lawsuits arising out of any interruptions or disturbances in electric service. Except as described in this section, Xcel Energy's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this Agreement, or from performance or breach thereof, shall in no case exceed the total dollar amount for the specific work giving rise to the claim.

7. General Terms

- 7.1 *No Third-Party Beneficiary.* This Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
- 7.2 *Assignment Prohibited.* Customer shall not assign the Agreement, or any part thereof, nor delegate in whole or in part, its responsibilities hereunder, without the prior written consent of Xcel Energy. Unless otherwise agreed to in writing by Xcel Energy, no assignment will release or discharge the Customer from any obligations under the Agreement. Any prohibited assignment or delegation shall be null and void.
- 7.3 *Legal Compliance.* The Parties shall comply with all Applicable Laws. Each Party shall monitor its agents, contractors, and employees for the purposes of ensuring compliance with all Applicable Laws. If any change in circumstances or law will affect a Party's performance under this Agreement, that Party shall notify the other Party of the change in circumstances or law at the earliest reasonable opportunity, and the Parties will negotiate in good faith to modify the Agreement to take into account the changed circumstance or law.
- 7.4 *Dispute Resolution.* In the event of any Dispute arising out of or relating to this Agreement, the complaining Party shall provide written notice of Dispute to the other Party. The Dispute notice shall describe the facts surrounding the Dispute in sufficient detail to apprise the other Party of the nature of the Dispute.

Xcel Energy and Customer shall attempt in good faith to settle all Disputes through the negotiation process set forth in this Section. To this effect, unless otherwise agreed, Xcel Energy and Customer shall conduct at least one face-to-face meeting between the designated representatives from both Parties in an attempt to reach a solution that is satisfactory to both Xcel Energy and Customer. Such a meeting shall take place within seven (7) Calendar Days following delivery of a Dispute notice. If that meeting does not resolve the Dispute, Xcel Energy and Customer shall have executive level leadership from both Parties meet and attempt to resolve the Dispute.

If Xcel Energy and Customer fail to resolve a Dispute in accordance with this Section, either Party may, subject to Section 7.5, proceed to a court of competent jurisdiction and may, subject to any limitation set forth herein, pursue any remedies available to it at law or in equity.

- 7.5 *Applicable Law and Venue.* This Agreement shall be interpreted according with the laws of the State of Minnesota. Venue for all legal proceedings arising out of or relating to this Agreement or breach thereof shall be in the state or federal court with competent jurisdiction in Hennepin County, Minnesota.
- 7.6 *Non-Waiver.* The failure of either Party at any time to insist upon the strict performance of any or all of the terms, conditions, and covenants in this Agreement shall not be deemed a waiver by that Party of any subsequent breach or default in the said terms, conditions, or covenants by the other Party.
- 7.7 *Complete Agreement.* This Agreement constitutes the complete and exclusive understanding of the parties concerning its subject matter. This Agreement supersedes all prior agreements, representations, understandings, and communications, written or oral, between the Parties as to the subject matter of this Agreement.
- 7.8 *Amendments.* The terms of this Agreement may be changed, amended or modified only by mutual signed agreement of the parties.
- 7.9 *Data Practices.* Each Party must comply with the Minnesota Government Data Practices Act (Minnesota Statutes, chapter 13), as it applies to any data received, collected, stored, or disseminated by a Party for the work performed under this Agreement. However, nothing prevents the public filing of this Agreement with the Minnesota Public Utilities Commission. Each Party shall be responsible for specifically identifying any information or data in the Agreement that it believes to be Not Public Data.

If a Party receives a data practices request for information about or data from this Agreement (the "Receiving Party"), the Receiving Party shall promptly notify the other Party (the "Notified Party") in writing or email that a data practices request concerning this Agreement has been received by the Receiving Party and identify what information or documents it would intend to produce in response to such a request. Upon receipt of notice from the Receiving Party that it has received a data request, the Notified Party shall have ten Working Days within which to notify the Receiving Party that the Notified Party does not believe the information or documents can be released pursuant to the Minnesota

Government Data Practices Act or other applicable law, and why. The Receiving Party shall be responsible for determining whether the requested data are public or otherwise classified and shall notify the Notified Party in writing or email of its decision, which notification shall be given at least three Working Days prior to release of the information or data to the requesting third party (if applicable). If the Notified Party disagrees with the Receiving Party's determination, the Notified Party may seek a protective order via court of competent jurisdiction.

Nothing in this section shall prohibit the disclosure of information, as required by law or legal process, to a court of competent jurisdiction or any agency or governmental body from the state or federal government with appropriate authority to request such information. If either Party is or could be legally compelled to make disclosure of information, the Receiving Party will notify the Notified Party prior to making such disclosure (unless prohibited by Applicable Laws) in order to permit the Notified Party to take steps to limit the effects of such disclosure. To be clear, any request for such information or documents issued to Xcel Energy from the Minnesota Public Utilities Commission, the Minnesota Department of Commerce, or the Office of the Minnesota Attorney General may be responded to by Xcel Energy in full, and if either Party believes that some portion of the response is non-public, such information or document will be marked in a manner consistent with the Minnesota Government Data Practices Act.

All reports, drawings, plans, specifications, calculations, studies, software programs, tapes, models, and memoranda, if any, assembled or prepared by Xcel Energy or Xcel Energy's affiliates, independent professional associates, agents, consultants, contractors, or subcontractors pursuant to this Agreement are instruments of service in respect of the Agreement, and Xcel Energy shall retain all ownership and property interest therein. Customer may make and retain copies for information and reference in connection with the Pilot Project; provided, however, that it is understood and agreed that such documents are not intended to be re-used by Customer or others on extensions of the Pilot Project or on any other project or any other purpose other than as expressly set forth in this Agreement, and Customer shall not re-use or disclose to any third party all or any portion of such work product without the express prior written consent of Xcel Energy, which consent shall not be unreasonably withheld.

- 7.10 *Force Majeure.* If a Party's performance is delayed or hindered by a Force Majeure Event, such Party is excused from such performance for the period of delay, provided that the Party claiming a Force Majeure Event has notified the other Party of the delay as soon as is reasonably possible. In such event, the period for the performance shall be extended for the period of such delay.
- 7.11 The Parties are independent contractors. Nothing in this Agreement or in the activities contemplated by the Parties hereunder shall be deemed to create an agency, partnership, employment or joint venture relationship between the Parties or any of their representatives. Neither Party is an agent of the other nor has the authority to represent the other as to any matters. Customer responsible for the safety of its respective agents, employees and other representatives. Xcel Energy in no way assumes any of the duties, obligations or liabilities attributed to Customer under the Agreement.

- 7.12 Those provisions of this Agreement which would require that they survive termination of the Agreement in whole or part in order to give them full force and effect will survive the termination of the Agreement, regardless of the date, cause or manner of the termination. Such provisions include but are not limited to Sections 3.4, 5.2, 5.5, 6.1, 6.2, 6.3, 6.4, 6.5, 7.1, 7.4, 7.5, 7.12, 7.14, 7.15, as well as the Company's right to retain any Data collected in connection with the Pilot Project. In addition, all rights of action arising from or related to the Agreement that accrue during the Term of the Agreement, and any remedies for such claims, both legal and equitable, will survive such termination.
- 7.13 *Branding and Consumer Education.* The Parties agree to discuss opportunities for Company branding, consumer outreach and education efforts related to the benefits of electric vehicles, and implementation of renewable energy in connection with the Pilot Project.
- 7.14 *Taxes on Sale of EV Supply Infrastructure.* If Xcel Energy sells the EV Supply Infrastructure to Customer at the then undepreciated balance of the EV Supply Infrastructure and Customer agrees to purchase the same, then Xcel Energy will deliver to Customer a Bill of Sale for the undepreciated balance of the EV Supply Infrastructure. Customer further agrees that, in accordance with federal and state laws in effect at the time of the sale of the EV Supply Infrastructure from Xcel Energy to Customer: (i) Customer shall be responsible for and shall pay transfer taxes, either directly to a taxing authority or to Xcel Energy, as required by law, related to the undepreciated balance of the EV Supply Infrastructure as stated on the Bill of Sale; and (ii) Xcel Energy agrees to complete a Form W-9 "Request for Taxpayer Identification Number and Certification" in the event of such sale.
- 7.15 *Notice.* Any notice required or permitted by this Agreement shall be deemed given (i) when delivered by hand, (ii) on the next business day after being sent by a reputable overnight courier service for next business day delivery, or (iii) on the third business day after being sent by prepaid United States mail, return receipt requested, in each case to the Party at the address specified as follows:

Customer:

Xcel Energy:



Either Party may change its address for notice purposes by giving the other Party prior written notice of the new address and the date upon which the change will be effective.

IN WITNESS WHEREOF, each of the undersigned is duly authorized and directed to sign this Agreement.

[Insert Customer Name]

By _____

Date: _____

Name _____

Title _____

Northern States Power Company, d/b/a Xcel Energy

By _____

Date: _____

Name _____

Title _____