

PowerFlex – General Services Agreement

This agreement, dated _____, _____ (“Effective Date”), is between PowerFlex Systems (“PowerFlex”), 1525 Miramonte Ave #3155, Los Altos, CA 94024, and _____ (“Customer”), _____, for the installation, operation, and maintenance of a vehicle electric charging network at _____ (“Property”).

1. **Installation.** PowerFlex is to install at locations set by Customer and make operational charging equipment per the attached estimate in the amount of _____, dated _____ (“Estimate”). Any change orders must be approved in advance by Customer in writing, and shall not include a gross margin overhead by PowerFlex exceeding 10%. Installation shall occur within thirty (30) days of the Effective Date. PowerFlex shall maintain commercially typical, primary insurance for its insurance as well as for its Customer shall pay PowerFlex for installation at the later of (a) 30 days after accurate and complete invoice has been delivered to Customer by PowerFlex, and (b) 30 days after charging system becomes and remains fully operational.
2. **Base Charges.** Any base monthly or yearly charges are also listed on the attached Estimate. A minimum of 7 units per location will be activated at install with additional units activated upon Customer’s request.
3. **Warranty.** PowerFlex will provide a warranty (parts and labor) for five (3) years for its Load Management Controller, and for three (3) years for individual charger controllers (ie: AeroVironment, ClipperCreek, Tesla, etc.), each date commencing from the date the system becomes fully operational and is able to charge a vehicle and bill a user.
4. **Carbon Credits and Rebates.** PowerFlex shall be entitled to any Low Carbon Fuel Standard (LCFS) credits generated by the EV charging system.
5. **Configuration.** On an ongoing basis, PowerFlex shall make its best efforts to configure the charging system for Customer’s desired usage, including: (a) prioritizing some chargers over others (for example, charging commercial space charger use more than residential), (b) prioritizing some users over others, (c) setting different usage pricing on a per user or per charger basis with such pricing ranging from free use to cost plus a markup as determined by Customer (with for example, a per user rate being either a set rate or a tiered rate based on usage such as free for the first x usage, and then at a cost + markup for the next y usage), and (d) if provided to other PowerFlex installations or otherwise made available by PowerFlex, reducing charge level of a particular charger after a set number of minutes (or other metric) of an end user’s use.
6. **End User Billing.** If Customer has a charger set for free use (in whole or in part), such free use shall be paid for by Customer and not charged to PowerFlex, nor shall PowerFlex add any surcharges to this usage. For fee usage billed to end-users by PowerFlex, PowerFlex shall bill end users at energy utility cost set by Customer (defaulting to Customer determined utility energy cost, or alternatively at Customer’s option, at a rate less than or greater than the actual energy utility cost), plus a 5% surcharge over set energy cost for PowerFlex operating costs or overhead (“Overhead Charge”). For fee usage of the system, PowerFlex shall be responsible for the billing and collections of such revenue from end users, and in case of a shortage (ie: failure

to bill or collect by PowerFlex), PowerFlex shall be responsible. PowerFlex may not institute any end-user account activation fees without the consent of Customer. No other service fees (or other markup) shall be billed to end users.

7. **Quarterly Settlements.** If the PowerFlex system is on the Customer submeter, PowerFlex shall reimburse Customer within 30 days of bill submittal by Customer to PowerFlex. Alternatively, if Customer at its option may have PowerFlex billed directly and in such cases PowerFlex shall pay utility bills directly. If the PowerFlex system is on a shared meter, PowerFlex shall reimburse Customer at a rate which in Customer's commercially reasonable opinion reflects the balance between fixed and variable costs on the utility bill and PowerFlex's percentage of use. Usage will be billed to PowerFlex at actual utility rates, adjusted by any use requested by Customer to be billed by PowerFlex at alternative rates. For example, PowerFlex will not be charged for usage requested by Customer to be given away, and for rates below energy cost or above energy cost, a direct and proportionate adjustment to the reimbursement payment by PowerFlex to Customer will be made accordingly.
8. **Data.** Each party may use any data generated from the PowerFlex system at the Property for its own uses. PowerFlex will provide an owner web portal to Customer containing all features requested by Customer that PowerFlex is providing for other installations. Additionally, on a quarterly basis, or more often if requested by Customer, PowerFlex will provide system usage reports to Customer, and additionally if requested by Customer, complete usage logs with identified user, start and end charge times, current used, etc., however, Transient Users may be anonymized and identified only by a number generated for that user, such number consistent between uses by such user. If a private sub-meter is added to electrical circuit(s), both parties should have direct access to the energy usage data it generates.
9. **Marketing.** Each party may mention the other in marketing materials: PF may list Customer's property while the system is operational. Customer may market that PF's services are available on site. PowerFlex may include branding on the individual chargers utilizing its technology on site. Any additional onsite branding is to Customer's prior written approval.
10. **Construction.** The construction of this Agreement will not take into consideration the party who drafted or whose representative drafted any portion of this Agreement, and no canon of construction shall be applied that resolves ambiguities against the drafter of a document. Each party acknowledges that: (a) it has read this Agreement; (b) it has been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of its own choice or has voluntarily declined to seek such counsel; and (c) it understands the terms and consequences of this Agreement and is fully aware of the legal and binding effect of this Agreement. The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
11. **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of laws provision. The parties hereto agree that any action, suit or other legal proceeding involving any differences, controversies or other disputes in any way related to or arising out of this Agreement shall be litigated exclusively in the United States District Court for the Central District of California, or the

California state court for the County of Los Angeles, and the parties hereby consent to the jurisdiction of such courts in respect of any such action, suit or other legal proceeding.

12. **Severability.** If any provision of this Agreement is held to be void or contrary to law, such provision shall be construed as nearly as possible to reflect the intention of the parties, with the other provisions remaining in full force and effect.
13. **Waiver.** No waiver of any term or provision of this Agreement shall be valid unless in writing and signed by the party agreeing to such waiver. No consent or waiver, express or implied, by a party of any breach or default by the other party in the performance of such other party of its obligations shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations under this Agreement of such other party. Failure on the part of a party to complain of any act or failure to act of another party or to declare another party in default, irrespective of how long such failure continues, shall not constitute a waiver by the first mentioned party of its rights under this Agreement.
14. **Entire Agreement.** This Agreement constitutes the complete and exclusive agreement between the parties regarding the subject matter hereof, and any and all previous representations, discussions and writings are merged and superseded by this Agreement. This Agreement may be modified only by a written document signed by all the parties hereto.
15. **Authority.** Each party is duly constituted under the laws of its formation. The execution, delivery and performance by each Party of this Agreement and the consummation of the transactions contemplated hereby are within each Party's corporate or other powers of formation and/or existence and have been duly authorized by all necessary corporate or other required action on the part of each Party. Each Party has all legal authority, authorizations and capacity to enter into this Agreement, and to assume the rights and obligations arising hereby. The undersigned officer or representative of Seller is duly authorized to execute and deliver this Agreement. Each party may act in reliance upon any instructions, instrument or signature reasonably believed to be genuine. Each party may assume that any employee or agent of the other, who gives any written notice, request or instruction under this Agreement, has the authority to do so. No advice or information, whether oral or written, obtained by either party shall create any warranty or representation not expressly made in this Agreement with regard to the subject matter contemplated herein.
16. **Independent Parties.** The parties remain independent of each other and nothing in this Agreement shall be construed to constitute a partnership or joint venture.
17. **Counterparts.** This Agreement can be executed in several counterparts, each of which shall be deemed to be originals and all of which together shall be deemed to be one original. This Agreement can be signed by facsimile which shall be deemed to be an original for all purposes.

18. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight carrier, or seven (7) days after being sent by certified or registered mail with successful receipt of delivery, with postage prepaid, addressed to the party to be notified at such party's address listed above (and to updated address upon written notice by the notifying party).

The parties, agreeing to be legally bound, have executed this Agreement as of the Effective Date.

PowerFlex Systems, Inc.:

:

Name: _____

Name: _____

Title: _____

Title: _____