

RESOLUTION NUMBER 13-22

**A RESOLUTION OF THE VILLAGE OF EAST DUNDEE,  
COOK AND KANE COUNTIES, ILLINOIS,  
APPROVING AND ENTERING INTO A LICENSE AGREEMENT WITH DIRTROAD  
COMMUNITY CHARGING OF CARBON SOLUTIONS GROUP**

**WHEREAS**, the Village of East Dundee ("Village") is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, The Village of East Dundee ("Village") desires to enhance the quality of life, protection and stewardship of the environments, and sustainable economic vitality; and

**WHEREAS**, Village Staff recommends the approval of entering into a license agreement with DirtRoad Community Charging of Carbon Solutions Group ("CSG"); and

**WHEREAS**, The Village will serve as a host for CSG to install two electric vehicle charging stations on public property for public use once CSG secures grant funding;

**NOW THEREFORE BE IT RESOLVED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION 1:** The Village's corporate authorities approve to enter into a license agreement ("Agreement") with CSG and further authorize and direct the President, or Village Administrator, to execute the Agreement and for the Village Clerk to attest the Agreement.

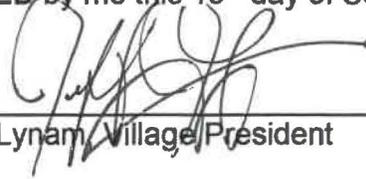
**ADOPTED** this 19<sup>th</sup> day of September, 2022, pursuant to a roll call vote as follows:

AYES: Kunze, Brittin, Saviano and Sauder

NAYES: Ø

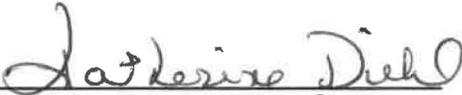
ABSENT: Mahony and Treiber

APPROVED by me this 19<sup>th</sup> day of September, 2022.



\_\_\_\_\_  
Jeffrey J. Lynam, Village President

**ATTEST:**



\_\_\_\_\_  
Katherine Diehl, Village Clerk

Published in pamphlet form this 20<sup>th</sup> day of ~~September~~, 2022, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on September 20, 2022.

## ELECTRIC VEHICLE CHARGING STATION LICENSE AGREEMENT

This ELECTRIC VEHICLE CHARGING STATION LICENSE AGREEMENT (this “Agreement”), dated as of October 6, 2022 (the “Effective Date”), is between CSG EV, LLC, a Delaware limited liability company, d/b/a (“CSG”), and the VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, an Illinois municipal corporation (“Host”). Each of CSG and Host is a “party,” and together they are the “parties,” to this Agreement.

### BACKGROUND

- A. CSG provides a variety of vehicle charging and support services to owners of electric plug-in vehicles (“EVs”);
- B. Electric Vehicle Charging Stations onsite allows Host to differentiate its location, attract high-value customers, and promote sustainable and environmentally-sound transportation; C. Host desires to participate in CSG’s network of Electric Vehicle Charging Stations; and D. This Agreement sets forth the parties’ agreement with respect to Host’s grant of the License to CSG.

### AGREEMENT

In consideration of mutual benefits and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

#### 1. LICENSE;

- 1.1. Host Property. The Host is the Owner of the property described in Exhibit A, attached hereto and made a part hereof (the “Host Property”).
- 1.2. Grant of License. Host, for good and valuable consideration, the sufficiency of which is acknowledged, grants to CSG a license (the “License”) to use a certain portion of Host Property specifically identified in Exhibit A and herein referred to as the “Licensed Space” for the purposes described in this Agreement, including but not limited to those described in Section 1.4 below.
- 1.3. Utilization Bonus.
  - 1.3.1. The Host will receive a Utilization Bonus for each charging station with average Annual Utilization at each percent above a 5% threshold. The Utilization Bonus is calculated according to table included in Exhibit B, which is determined by the following formula:
    - (a) Take the Multiplier Rate representative of the Annual Percent Utilization and multiply it by the dollar value shown in the tier.
- 1.4. Use of Licensed Space. The License includes use of the Licensed Space and the areas of Host Property that are reasonably necessary to provide ingress and egress to and from the Licensed Space and the Electric Vehicle Charging Stations (as defined below); for the purposes of the construction, installation, maintenance, repair and operation of the grid integrated Electric Vehicle Charging Stations by CSG; and for any ancillary uses permitted herein, all in accordance with this Agreement) (collectively the “Necessary Space”);
- 1.5. Host Obligations. Subject to limitations contained herein, Host agrees to, at all times, make the Licensed Space and Necessary Space available to CSG, its subcontractors and vendors, and all users of the Electric Vehicle Charging Stations.

#### 2. TERM; TERMINATION

- 2.1. License Term.
  - 2.1.1. The term (“Term”) of the License shall commence on the Effective Date and, subject to the provisions of Section 2.2 below, end on the date that is ten (10) years from the Commencement Date (as extended from time to time, the “License Expiration Date”). The “Commencement Date” shall mean the date on which the Electric Vehicle Charging Station is first operational.
  - 2.1.2. CSG and Host may mutually agree to Term of this Agreement for two (2) consecutive terms of five (5) years each in accordance with the terms and provisions of this Agreement (collectively “Extended License Term”) by providing written notice of intent to extend the Term within one hundred eighty (180) days of the end of the existing Term. The Extended License Term shall begin immediately following the end of the 10-year term.

## 2.2. Termination.

- 2.2.1. Upon Certain Events. This Agreement may be terminated upon thirty (30) days' written notice to either party without penalty or fee in any of the following circumstances:
- 2.2.1.1. In the case of termination by CSG, in the event that the Commencement Date has not yet occurred, CSG may terminate the contract by providing written notice thereof to Host; and CSG may elect to forgo development or modify the number and type of charging stations if CSG determines, at its sole discretion, that the installation is impracticable or uneconomical, including due to the ineligibility or unavailability of incentives or rebates, by providing written notice to Host;
- 2.2.1.2. In the case of termination by Host, in the event the Commencement Date of any Location listed in Schedule A has not occurred within 24 months following this Agreement Date Host may terminate the contract as it pertains only to that specific Location; provided that the foregoing right shall terminate upon the Commencement Date of that specific Location listed in Exhibit A. Notwithstanding the foregoing, the Host may not terminate the agreement for any Location if CSG has commenced construction.
- 2.2.2. For Cause. This Agreement may be immediately terminated for cause by either party in the event of the following circumstances:
- 2.2.2.1. *Breaches*. The other party breaches or fails to perform any of its obligations in any material respect, and such breach or failure continues uncured for forty-five (45) business days after receipt of written notice.
- 2.2.2.2. *Assigns*. The other party attempts to assign or otherwise transfer its rights, obligations, or duties under this Agreement except as provided in section 5.2.3 and 8.5 below..
- 2.2.3. Licensed Space on Termination. Within six (6) months following the expiration of the License Term or termination under Section 2.2, CSG shall remove the Electric Vehicle Charging Stations and any other supporting or ancillary equipment installed by CSG from the Licensed Space and restore the affected area to its former condition, excluding ordinary wear and tear; *provided, however,* that any underground electrical wiring shall be capped off and secured, but not removed. For the avoidance of doubt, CSG will not remove any equipment installed by a utility, which may include but may not be limited to: transformers, junction boxes, primary cable and conduit and electric meters and panels.
- 2.2.4. No Further Obligations. Upon any termination pursuant to this ARTICLE 2, both parties are relieved of any further obligations contained in this Agreement, except for those that by their nature survive or may require performance after termination (e.g., indemnity).

## 3. ELECTRIC VEHICLE CHARGING STATIONS

- 3.1. Electric Vehicle Charging Stations; Ancillary Facilities.
- 3.1.1. The design, make, model, and manufacturer of the Electric Vehicle Charging Stations (each an "Electric Vehicle Charging Station" or "Charging Station") and their number and approximate locations are specified in Exhibit A. CSG, at any time and for any reason during the License Term, may, upon proper notice given to the Host, elect to upgrade, revise, alter, or swap any Charging Station installed in the Licensed Space at its sole discretion and Host shall provide CSG access to the Licensed Property as necessary to do so.
- 3.1.2. For purposes of this Agreement, "Electric Vehicle Charging Station" shall mean all electrical equipment, hardware, and software installed by CSG, the Charging Stations, all CSG signage and all supporting equipment and structures, including without limitation concrete pads and protective bollards.
- 3.2. CSG may, with Host's prior approval which shall not be unreasonably withheld, include at the Licensed Space other additional services related to charging of electric vehicles, equipment or facilities for automobile upkeep that CSG may elect to offer its customers from time to time during the Term. Additionally, CSG and its employees and vendors may, with Host's prior approval, perform security assessments and install (or add additional) reasonable security features at the Electric Vehicle Charging Stations, including, without limitation, lighting and cameras.
- 3.3. Access. CSG, its subcontractors, vendors and customers shall have access to the Licensed Space and Necessary Space twenty-four (24) hours per day, seven (7) days per week, and 365/366 days per year. CSG and its employees and vendors may, at any time during the Term, access the Licensed Space and Host Property to maintain, inspect, repair or replace any portion of the Electric Vehicle Charging Stations

pursuant to its obligations under this Agreement.

- 3.4. Signage. Signage at minimum will include what is legally required per law for electric vehicle charging stalls. Additionally, CSG may paint, place, erect, or project signs, marks, or advertising devices in, on, or about the Licensed Space or elsewhere on the Host Property upon obtaining Host's written consent and approval of signage content (which may be granted or denied in Host's commercially reasonable discretion). CSG shall, at its own cost and expense, obtain any and all permits necessary for the installation of its signs, and CSG shall be solely responsible for all costs and expenses associated with such permitting, the erection of such sign(s), and the maintenance and operation thereof. Further, CSG and Host also agree to place signage on or around the Electric Vehicle Charging Station, designating the area as "Electric Vehicle Charging Only," and will take reasonable measures to discourage non-EV vehicles from parking in the Licensed Space, including, without limitation, towing. Host agrees that it shall not place any signs, marks or advertising devices on any portion of the Electric Vehicle Charging Station or in the Licensed Space without CSG's prior written consent and approval of signage content (which may be granted or denied in CSG's commercially reasonable discretion).
- 3.5. Installation.
  - 3.5.1. CSG, at its sole cost, is solely responsible for supervising or conducting the construction and installation activities for the Electric Vehicle Charging Station, and, as between the parties, has sole control over construction, construction schedule, and installation means, methods, techniques, sequences, and procedures, including the coordination of all work.
  - 3.5.2. Before beginning activities to install the Electric Vehicle Charging Station in the Licensed Space, CSG shall give a copy of the tentative construction schedule and installation plans to Host. No work will begin until all applicable permits and certifications have been obtained. Once parties' respective demonstration that all insurance coverages required by this Agreement are in place, CSG will oversee and manage the installation of the Electric Vehicle Charging Station, including the hiring and coordination of all vendors and contractors; the installation of electrical equipment, utility lines, hardware, and software; site preparation, trenching, repaving, and landscaping; and installation of all CSG branded signage.
  - 3.5.3. CSG, at its sole cost, will obtain from applicable governmental authorities all licenses, permits, or other approvals required to install the Electric Vehicle Charging Station, and Host will reasonably cooperate upon request with CSG's efforts to do so.
  - 3.5.4. Host grants to CSG and its employees and vendors the non-exclusive right to use and occupy the Licensed Space and Host's adjacent property for the construction and installation of the Electric Vehicle Charging Station, and shall confine its operations strictly to those sites permitted by applicable law, ordinances, permits, Host, and the terms of this Agreement. Only those materials and equipment that are being used directly in the construction and installation of Electric Vehicle Charging Station shall be brought to and stored on the Licensed Space and its adjacent areas. CSG shall ensure that, subject to reasonable and unavoidable interruptions, all work is performed in a manner that affords continuous, reasonable access to Host Property.
  - 3.5.5. CSG will not permit or suffer any mechanic's or materialmen's liens to attach to the Licensed Space as a result of the installation of the Electric Vehicle Charging Station. If such a lien attaches to the Licensed Space, CSG shall remove or bond over such lien at CSG's sole cost and expense, within twenty (20) days of CSG receiving written notice thereof from Host.
  - 3.5.6. Ownership of Intellectual Property and Charging Stations. CSG owns all worldwide right, title, and interest in and to the Electric Vehicle Charging Station, its related hardware, software, commodities and all derivatives thereof; any processes, relationships, and contracts associated therewith; all related graphics, user interfaces, logos, and trademarks reproduced during its operation; and all Intellectual Property rights therein. Host hereby assigns all such rights to CSG and agrees to execute any documents desirable to effectuate or evidence the foregoing. The foregoing rights shall vest with CSG upon the Effective Date and shall remain with CSG in perpetuity absent CSG's disposing or transferring of such rights at its sole discretion. CSG shall have the right to remove all or a portion of the Charging Station at any time during the License Term, whether or not said items are considered fixtures and attachments to the Licensed Space under applicable laws. CSG shall have sole right and title to any government grants, rebates, incentives and credits awarded as a result of the construction and/or operation of the charging stations.
- 3.6. Operation and Maintenance. Except as otherwise provided in this Agreement, CSG will, at its sole cost and expense, maintain and operate the Electric Vehicle Charging Station, including making all necessary

repairs, arrange for appropriate remote monitoring, and obtaining and installing appropriate software and hardware upgrades. CSG shall notify the Host prior to any scheduled maintenance or repairs necessary

for the Electric Vehicle Charging Station. Upon notification of any graffiti or other vandalism affecting the Electric Vehicle Charging Station, CSG shall timely clean and/or repair the affected Electric Vehicle Charging Station as directed by Host. CSG shall, other than expressly stated herein, be the sole beneficiary of all revenues and costs associated with the foregoing.

- 3.7. Host Obligations. Host shall, at its sole cost and expense, take all actions necessary to maintain the Licensed Space in a clean, safe, and orderly condition, to at least the same standard as it customarily maintains the common areas at the Host Property, including, without limitation, parking lot sweeping, parking lot snow removal, parking lot repaving and restriping, and maintenance and repair of curbs, gutters and landscaping features within the Licensed Space. In addition, Host shall take reasonable precautions to protect the Electric Vehicle Charging Station from graffiti and other vandalism. For the avoidance of doubt, Host shall be under no obligation to maintain the Electric Vehicle Charging Station, signage or any other equipment installed by CSG within the Licensed Space. To the extent Host has actual knowledge of the same, Host shall promptly notify CSG and, as appropriate, emergency response personnel regarding any malfunction of the Electric Vehicle Charging Station. Host shall make commercially reasonable efforts to accommodate any reasonable request by CSG in connection with the operation of the Charging Station.
- 3.8. Utility Availability.
  - 3.8.1. CSG shall be responsible for all electricity costs of the Electric Vehicle Charging Station. CSG shall, at its sole expense, either (i) ensure that the Electric Vehicle Charging Stations contains separately-metered electricity with CSG as the customer of record for such meter, or (ii) install one or more sub-metering devices which measure in kWh the electricity used by the Electric Vehicle Charging Station, in which case CSG will pay Host for the electricity used by the Electric Vehicle Charging Station at according to the Electricity Cost Reimbursement table in Exhibit A.
  - 3.8.2. Host shall cooperate with CSG to obtain electricity and any other utilities necessary to operate the Electric Vehicle Charging Station, including by granting appropriate easements to local utility providers and/or obtaining necessary easements from adjacent property owners for the location of necessary utilities; *provided, however*, that Host is not required to pay money to satisfy the requirements of the utility, the adjoining landowner or CSG associated with the provision of such utilities.
  - 3.8.3. Neither Host nor CSG has any responsibility or liability for interruption, curtailment, failure, or defect in the supply or character of utilities furnished to facilities or equipment located in the Licensed Space, unless the cause of the interruption is covered by the party's indemnity provided for in ARTICLE 7.
- 3.9. Taxes. CSG is solely responsible for personal property taxes imposed on the Electric Vehicle Charging Station, and any other equipment installed by it, that is located in the Licensed Space. All other real or personal property taxes related to the Licensed Space, including any increase in real estate taxes on the real property on which the Licensed Space is located which arise from CSG's improvements and/or CSG's use of the Licensed Space, are the sole obligation of Host. Each party is responsible for its own income, franchise and similar taxes.
- 3.10. Local Ordinances. All applicable ordinances in the Village of East Dundee Village Code shall apply to the Licensed Space and the Electric Vehicle Charging Stations.
- 3.11. Customer Use. Customers will be limited to a maximum use of two (2) hours parking in the License Space of the Electric Vehicle Charging Station per charging session.

#### **4. INTELLECTUAL PROPERTY; PUBLICITY**

- 4.1. Intellectual Property. As used in this Agreement, "Intellectual Property" means all copyrights, patents, trademarks and service marks, names, logos, designs, domain names, generic Top-Level Domain names, all registrations for copyrights, patents, trademarks and service marks/names, domain names, generic Top-Level Domain names, trade secrets, know-how, and all unique concepts, information, data and knowledge that is eligible for legal protection under applicable laws as intellectual property, whether protected through confidentiality, registration or pending registration, regardless of form, whether disclosed in writing, electronically, orally or through visual means, whether learned or obtained orally, through observation, through the discharge of responsibilities under this Agreement, or through analysis

of that information, data or knowledge.

4.1.1. *Host Intellectual Property*. The parties agree that, as between them, Host has and retains ownership of all of Host's Intellectual Property, and CSG has no right, and shall not obtain any right, in any Host Intellectual Property.

4.1.2. *CSG Intellectual Property*. The parties agree that, as between them, CSG has and retains ownership of all of CSG's Intellectual Property, and Host has no right, and shall not obtain any right, in any CSG Intellectual Property.

4.2. Ownership of Drawings and Other Documents. All documents prepared by or under the direction of CSG pursuant to this Agreement, including, without limitation, drawings, surveys, technical drawings, specifications, and other documents, including those in electronic format, are solely and exclusively CSG Intellectual Property, and CSG retains all common law, statutory and other reserved rights, including the copyright.

4.3. Publicity.

4.3.1. CSG and Host may make general press releases and statements, hold press conferences, both through traditional and electronic media, including websites created by CSG or other third parties, regarding the execution of this Agreement and the status of the activities contemplated herein, *provided* each has the ability to review and approve in advance the other's public statements and any use of the other's Intellectual Property in connection therewith.

4.3.2. Notwithstanding anything to the contrary within this Agreement, CSG may advise mapping services, the manufacturers of vehicle navigation systems, map data providers, and other third-parties of the existence, location, and other details of the Electric Vehicle Charging Stations at the Licensed Space so that such services and manufacturers may include such information in connection with their mapping and listing services and navigation systems; and CSG may disclose to the public information about the location of the Electric Vehicle Charging Stations and the progress of its construction as required by governmental authorities. In addition, the parties may provide copies of this Agreement or portions hereof to utility providers, governmental authorities, and/or third parties referenced in Section 5.2.1 as reasonably necessary or desirable to facilitate or effectuate the intents and purposes of this Agreement.

## **5. REPRESENTATIONS AND WARRANTIES; COVENANTS**

5.1. Representations and Warranties. Each of Host and CSG hereby represents and warrants to the other as of the Effective Date that: (a) it has all necessary power and authority to execute, deliver, and perform its obligations hereunder; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary action and do not violate any of the terms or conditions of its governing documents, any contract to which it is a party, or any law, rule, regulation, order, judgment, or other legal or regulatory determination applicable to it; (c) there is no pending or, to its knowledge, threatened litigation or administrative proceeding that may materially adversely affect its ability to perform this Agreement; (d) it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing; (e) this Agreement constitutes a legal, valid and binding obligation of such party, except as the enforceability of this Agreement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity; and (f) at all times during the Term, it will comply with all federal, state, and local laws, rules, regulations (including, without limitation, all zoning ordinances and building codes) in performing its obligations under this Agreement.

5.2. Rights to Host Property. Permitted Uses on Host Property.

5.2.1. Host further represents, warrants and covenants that it has obtained or it shall obtain any and all consents, permits or approvals required in order for Host to grant the License and other rights and perform its obligations under this Agreement, and for CSG to take the actions with respect to the Licensed Space contemplated in this Agreement, from any third parties: (i) with an interest in the Host Property (including, without limitation, any owner, lender, lessee, ground lessor, or any party to any reciprocal easement agreement); (ii) whose consent is otherwise required under conditions, covenants and restrictions documents, declarations or similar agreements affecting the Host Property: or who exercise governmental or regulatory jurisdiction over the Host Property, including

local and state governments. When obtaining consent, permit or permissions is required, Host and CSG shall use cooperative commercially reasonable efforts to contact and educate the applicable third parties of the terms, conditions, and benefits of the activities proposed to be taken pursuant to this Agreement. As part of that effort, the parties will, on request, include applicable necessary third parties as additional named insureds on the insurance policies required by ARTICLE 6, offer appropriate indemnities on terms similar to those stated in ARTICLE 7, satisfy

reasonable third party requests and concerns regarding the Electric Vehicle Charging Stations and related items, and take other commercially reasonable steps required to obtain any required consent, permits or permissions of those third parties that is consistent with this Agreement.

- 5.2.2. Host further represents and warrants that there are no liens, judgments, encumbrances or other impediments of title on the Host Property that would adversely affect the use or occupancy of the Licensed Space by CSG pursuant to this Agreement, and during the Term of this Agreement covenants to maintain the Host Property free of any such liens, judgments, encumbrances or other impediments.

## **6. INSURANCE; CASUALTY AND CONDEMNATION**

### **6.1. CSG Insurance.**

- 6.1.1. During the License Term, CSG shall maintain in full force and effect, at its cost and expense, the following coverages and amounts of insurance:
- 6.1.1.1. Full replacement cost Property Insurance (written on a “special perils” basis) for the Electric Vehicle Charging Stations and all other personal property, machinery, equipment and trade fixtures owned by CSG;
  - 6.1.1.2. Statutory Worker’s Compensation Insurance, and Employer’s Liability limits of \$1,000,000.00 per accident/per employee;
  - 6.1.1.3. Commercial General Liability Insurance, written on an occurrence basis, covering bodily injury (including death), personal injury, and property damage, with limits of not less than \$1,000,000.00 per occurrence, that includes coverage for contractual liability, independent contractors, premises/operations, products/completed operations, and cross liabilities/separation of insureds; CSG shall consider its own insurance primary, and shall not seek contribution from similar insurance being maintained by the Host, but only as to the negligent acts or omissions of CSG or the CSG Parties.
  - 6.1.1.4. Automobile Liability with a combined single limit of \$1,000,000.00 that includes coverage for owned, non-owned and hired vehicles; and
  - 6.1.1.5. \$5,000,000.00 in excess liability coverage per occurrence, for injuries, losses, claims for damages to persons or property occurring on the Licensed Space, and resulting from the use of the Electric Vehicle Charging Station, the occupancy of the Licensed Space and/or the negligence of CSG and its agents, contractors, employees or invitees, which coverage shall sit excess of the scheduled underlying General Liability, and Automobile Liability and Employer’s Liability Insurance policies with exclusions that are no more broad than those contained in the underlying policies.
- 6.1.2. With respect to CSG’s Commercial General Liability Insurance, Automobile Liability Insurance and Excess Liability Insurance, include Host as an additional insured with respect to liability arising out of the ownership, maintenance or use of the Electric Vehicle Charging Station or the Licensed Space.
- 6.1.3. Annually, CSG shall provide Host with a certificate of insurance and endorsement, evidencing the required coverages.

### **6.2. Host Insurance**

- 6.2.1. During the License Term, Host shall maintain insurance in the following amounts:
- 6.2.1.1. Full replacement cost Property Insurance (written on an “special perils” basis) for (1) the Host Property and all improvements thereon (including without limitation the Licensed Space and all electrical infrastructure for the Electric Vehicle Charging Station); and (2) all personal property, machinery, equipment and trade fixtures located at the Host Property or owned by Host; and
  - 6.2.1.2. Commercial General Liability insurance with a minimum combined single limit of liability of at least \$2,000,000 for personal injuries or deaths of persons occurring in or about the

Licensed Space and Host Property.

- 6.2.2. Annually, Host shall provide CSG with a certificate of insurance and endorsement, evidencing the required coverages, stating that the insurance is primary with regard to Host and naming CSG as an additional insured.
- 6.3. Policy Requirements. The insurance policies required under Sections 6.1 and 6.2 shall:
- 6.3.1. be issued by insurance companies licensed to do business in the state in which the Host Property is located, with a general policyholder's ratings of at least "A-" and a financial rating of at least "Class VIII," in the most current Best's Insurance Reports available on the Commencement Date; if the Best's ratings are changed or discontinued, the parties shall agree to a comparable method of rating insurance companies;
  - 6.3.2. contain provisions whereby each party's insurers waive all rights of subrogation against the other party on each of the coverages required herein.
- 6.4. Waiver. Anything in this Agreement to the contrary notwithstanding, to the extent covered by any property insurance maintained (or required to be maintained) hereunder, each party hereby waives every right or cause of action for any and all loss of, or damage to (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom said other party may be responsible) the Host Property, the Licensed Space, the Electric Vehicle Electric Vehicle Charging Stations, or any improvements on any of the foregoing, or to the personal property of either party, or their respective affiliates, representatives, agents, officers, directors, managers, members, shareholders, partners, contractors, or employees, regardless of cause or origin. These waivers and releases shall apply between the parties and they shall also apply to any claims under or through either party as a result of any asserted right of subrogation.
- 6.5. Casualty and Condemnation.
- 6.5.1. Damage. If any portion of the Licensed Space is damaged by fire or other casualty; or any portion of the Host Property is damaged by fire or other casualty caused by the negligent act or omission of CSG, CSG will have thirty (30) days from date of such fire or casualty to elect to repair the property with notice of such intent delivered in writing to Host. If no written notice is received by Host within that thirty-day period, then either party may, within forty-five (45) days of the date of such fire or other casualty elect to terminate the License on written notice to the other party. If CSG elects to repair such property, it shall restore, rebuild, or replace those portions of the Electric Vehicle Charging Station in the Licensed Space and any other property damaged as a result of such fire or other casualty to its prior or better condition as necessary, and all property insurance proceeds of Host applicable to the Licensed Space shall be made available to CSG in connection with such repair and restoration. If CSG elects to terminate the License, it shall remove all of CSG's property from the Licensed Space in accordance with Section 2.2.2 of this Agreement. Any repair and restoration required by CSG under this Section 6.5.1 shall commence within sixty (60) days of the date CSG elects to repair and restore the Licensed Space and shall be completed no later than 180 days thereafter.
  - 6.5.2. Condemnation/Taking. If any portion of the Licensed Space or Host Property is condemned or taken in any manner for a public or quasipublic use that could adversely affect the use of the Electric Vehicle Charging Station, then CSG may elect to terminate this Agreement effective as of the date title to the condemned portion of the Host Property is transferred to the condemning authority. If CSG does not elect to terminate, the parties will use commercially reasonable efforts to find an alternate location for the Electric Vehicle Charging Stations elsewhere on Host Property. The costs of the relocation of the Electric Vehicle Charging Stations shall be shared by CSG and Host. CSG may file a separate claim to the condemning authority for any relocation award made as a result of such condemnation. All relocation awards made as a result of such condemnation shall be paid to CSG to the extent that the Necessary Space is affected.
  - 6.5.3. Suspension of Term. During any time that the Electric Vehicle Electric Vehicle Charging Station or any portion of the Licensed Space is under repair or being relocated pursuant to this Section 6.5, the Term shall be suspended on a day-for-day basis.

## **7. INDEMNITY; LIMITATION OF LIABILITY**

- 7.1. CSG. Subject to Sections 6.4, and 7.3, CSG shall indemnify and hold harmless Host, its elected and appointed officials, employees, and agents (individually, "Host Party" and, collectively, the "Host

Parties”) from and against all claims, demands, causes of action, liabilities, costs, damages, losses, penalties, fines, judgments or expenses, including reasonable attorneys’ fees and costs of collection (collectively, “Losses”) that arise out of or result from (i) any breach by CSG of its obligations, representations or warranties under this Agreement, or (ii) the willful misconduct or negligence of CSG, except to the extent arising out of or resulting from any willful misconduct or negligence of any Host Party or any installation or other activities conducted by a contractor, or other service provider designated by Host or by CSG per the express instructions of Host; and excepting any claims arising out of Host’s active negligence or willful misconduct. The obligations of CSG under this Section shall survive the expiration, cancellation, or termination of this Agreement and Term.

- 7.2. Host. Subject to Sections 6.4 and 7.3 hereof, Host shall indemnify and hold harmless CSG, its affiliates, and their respective representatives, agents, officers, directors, shareholders, partners and employees (individually, “CSG Party” and collectively, the “CSG Parties”) from and against all Losses that arise out of or result from (i) any willful misconduct or negligence of any Host Party in connection with this Agreement or (ii) any breach by Host of its obligations, representations or warranties under this Agreement. The obligations of Host under this Section shall survive the expiration, cancellation, or termination of this Agreement and the Term.
- 7.3. Limitation of Liability. In no event shall either party be liable (in contract or in tort, including negligence and strict liability) to such other party or its Related Parties for any special, indirect or consequential damages relating to the Agreement. The entire liability of each party for any and all claims of any kind arising from or relating to the Agreement will be subject in all cases to an affirmative obligation on the part of the other party to mitigate its damages. Each party’s total liability for any and all liability to the other party and to such other party’s affiliates or their respective representatives, agents, officers, directors, shareholders, partners or employees (on an aggregate basis) arising out of or in connection this Agreement whether in contract or in tort (including negligence and strict liability) shall not exceed the greater of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) or, if insurance coverage is applicable, the insurance coverage limits required under this Agreement. The provisions of this Section 7.3 shall apply to the full extent permitted by law and shall survive termination of this Agreement. The limits of this Section 7.3 shall not apply to a party’s obligations pursuant to Section 7.2, to the Liquidated Damages calculation in Section 5.2., or to damages based on CSG’s lost earnings and lost potential earnings.

## 8. MISCELLANEOUS

- 8.1. Independent Agreements. The parties acknowledge and agree that the rights and obligations under the Agreement are separate and independent from, and shall not be conditioned on or affected by the performance or non-performance of the terms of, any other agreement between CSG and Host.
- 8.2. Survival of Covenants. The covenants, representations and agreements of Sections 2.2.3, 2.2.4, 3.56, 3.6, 4.1, 4.2, 4.3.2, 5.1, 6.4, 7, and 8 shall survive the expiration, termination or cancellation of this Agreement, regardless of reason.
- 8.3. Ancillary Services. CSG shall hold all right and title to any ancillary services related to the production or consumption of electricity connected to the operation of the charging stations.
- 8.4. Notice. Any notice provided or permitted to be given under this Agreement must be in writing and be served either by (i) deposit in the mail, addressed to the party to be notified, postage prepaid, and registered or certified, with a return receipt requested, or (ii) deposit with an internationally-recognized overnight delivery carrier, with notice of delivery to the recipient party. Notice given by registered or certified mail or overnight carrier shall be deemed delivered and effective on the date of delivery shown on the return receipt or proof of receipt. For purposes of notice the addresses of the parties shall be as follows:

If to CSG:

CSG EV LLC  
600 B Street Suite 300  
San Diego, CA 92101  
Attn: Kory Trapp, V.P. Project Development

If to Host:

\_\_\_\_\_  
\_\_\_\_\_

Each party may change its address for notice by giving notice thereof to the other party.

8.5. Assignment. This Agreement is binding on and inures to the benefit of the parties and their respective heirs, successors, assigns, and personal representatives. Neither party may assign its rights and obligations in and under this License without first obtaining prior written consent of the other party, which shall not be unreasonably withheld; *provided, however*, that either party may assign its rights and

obligations in and under the Agreement to an affiliate, subsidiary or successor by merger or acquisition, or successor to all or substantially all or a portion of the assets of such party at any time and without consent. For the avoidance of doubt, and notwithstanding anything to the contrary within this Agreement, assignment or transfer of all or a portion of Host's interests in the Host Property shall not require the consent of CSG, subject to such assignee or transferee assuming all of Host's obligations and liabilities of this Agreement.

Notwithstanding anything to the contrary herein, CSG may assign its rights and obligations in and under this Agreement, at its sole discretion, without consent, to any third-party transferee of all or substantially all of CSG's interest in the Electric Vehicle Charging Station, subject to its provision of written notice thereof to Host.

8.6. Independent Entities. The parties shall act as and remain independent entities in the performance of this Agreement. Nothing in the Agreement shall be deemed or construed to create a joint venture, partnership, fiduciary, or agency relationship between the parties for any purpose, and the employees of one party shall not be deemed to be the employees of the other party. Except as otherwise stated in this Agreement, neither party has any right to act on behalf of the other, nor represent that it has such right or authority.

8.7. Governing Law. This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Illinois without giving effect to conflict of law rules. The parties further agree that all actions brought under this Agreement shall be brought in the courts located in Kane and Cook Counties, Illinois.

8.8. Further Assurances. Each party agrees to execute (and acknowledge, if requested) and deliver additional documents and instruments and to perform additional acts as may be reasonably necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions and conditions of this Agreement.

8.9. Force Majeure. Change in Law. Neither party is responsible for any delay or failure in performance of any part of the Agreement to the extent that delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, act or omission of carriers, suppliers or other similar causes beyond the party's control. If any rule, directive, order, decision or law adversely impacts the ability for CSG to perform its obligations under the Agreement without becoming licensed or otherwise regulated by a public utility commission or analogous agency in the relevant jurisdiction, CSG may, at its option, immediately suspend performance under the Agreement and/or terminate the Agreement upon notice to Host and without penalty.

8.10. Attorneys' Fees; Waiver of Jury Trial. If either party institutes a suit against the other for violation of or to enforce any covenant, term or condition of this Agreement, the prevailing party shall be entitled to reimbursement of all of its costs and expenses, including, without limitation, reasonable attorneys' fees. The parties hereby waive any and all rights which either party may have to request or require that a jury determine any fact, matter, controversy, dispute or litigation between them, or render any judgment or decision, in any way concerning this Agreement, and agree that any and all litigation between them arising from or in connection with this Agreement shall be determined by a judge sitting without a jury.

8.11. No Waiver. The failure of a party to insist on strict performance of any provision of the Agreement does not constitute a waiver of, or estoppel against asserting, the right to require performance in the future. A waiver or estoppel given in any one instance does not constitute a waiver or estoppel with respect to a later obligation or breach.

8.12. No Third Party Beneficiaries. This Agreement does not confer any rights or remedies on any person other

than the parties and their respective successors and permitted assigns.

- 8.13. Remedies. The rights and remedies provided by this Agreement are cumulative, and the use of any right or remedy by any party does not preclude or waive its right to use any or all other remedies. These rights and remedies are given in addition to any other rights a party may have under applicable law, in equity or otherwise.
- 8.14. Integration; Amendments. It is agreed and understood that this Agreement contains all agreements, promises and understandings between the parties, and that there are no verbal or oral agreements, promises or understandings between the parties. Any amendment, modification or other change to this Agreement shall be ineffective unless made in a writing signed by the parties hereto.
- 8.15. Severability. If any term of this Agreement is held by any court of competent jurisdiction to contravene, or to be invalid under, the laws of any political body having jurisdiction over this subject matter, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as reformed to the extent necessary to render valid the particular provision or provisions held to

be invalid, consistent with the original intent of that provision and the rights and obligations of the parties shall be construed and enforced accordingly, and this Agreement shall remain in full force and effect as reformed.

- 8.16. Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all the parties had signed the same document; all counterparts shall be construed together and shall constitute one and the same instrument. The delivery of an executed counterpart to this Agreement by electronic means (including via email) shall be as effective as the delivery of a manually executed counterpart.
- 8.17. Construction. The headings in this Agreement are inserted for convenience and identification only. When the context requires, the number of all words shall include the singular and the plural. In this Agreement, words importing any gender include the other genders and the words including, includes and include shall be deemed to be followed by the words without limitation. All documents or items attached to, or referred to in, this Agreement are incorporated into this Agreement as fully as if stated within the body of this
- 8.18. Agreement. The Agreement expresses the mutual intent of the parties to this Agreement and the rule of construction against the drafting party has no application to this Agreement.

Signature Page Follows:

Effective as of the date first set forth above.

HOST:

VILLAGE OF EAST DUNDEE,  
an Illinois municipal corporation

By:



Name: Jeffrey J. Lynam

Title: Village President

CSG:

CARBON SOLUTIONS GROUP LLC,  
a Delaware limited liability company

By: 

Name: Kory Trapp

Title: SVP EV Infrastructure

532006\_1

**EXHIBIT A**

**DESCRIPTION OF HOST'S PROPERTY**

Description of Host Property:

Property	Address
1	West Side of River St./South of Railroad, East Dundee, IL
2	11 E. Main Street Parking Lot, East Dundee, IL

Number and Type of Electric Vehicle Charging Stations to be located on Licensed Space:

- CSG will apply for Climate and Equitable Jobs Act (CEJA) and/or VW Diesel Emissions Mitigation Trust (VW DEMA) funding, as feasible, considering a tentative installation scope of 1 x 100 kW DC Fast Charging stations.
- CSG will monitor potential additional sources of funding for each location to maximize capacity per location.

Property	Charger Type/Capacity	Initial Scope
1	DCFC 120 kW or similar	1 station/2 ports
2	DCFC 120 kW or similar	1 station/2 ports

Electricity Cost Reimbursement table:

Unit	Unit cost
kWh	\$ _____

532006\_1

**EXHIBIT B**

**UTILIZATION BONUS DCFC DC FAST CHARGER**

<b>Annual Percent Utilization</b>	<b>Multiplier Rate</b>	<b>Tier</b>		<b>Compensation Per Charger</b>
0%	0	\$0.00		\$0.00
1%	0	\$0.00		\$0.00
2%	0	\$0.00		\$0.00
3%	0	\$0.00		\$0.00
4%	0	\$0.00		\$0.00
5%	0	\$0.00		\$0.00
6%	1	\$50.00		\$50.00
7%	2	\$50.00		\$100.00
8%	3	\$50.00		\$150.00
9%	4	\$50.00		\$200.00
10%	5	\$50.00		\$250.00
11%	6	\$50.00		\$300.00
12%	7	\$50.00		\$350.00
13%	8	\$50.00		\$400.00
14%	9	\$50.00		\$450.00
15%	10	\$50.00		\$500.00
16%	11	\$50.00		\$550.00
17%	12	\$50.00		\$600.00
18%	13	\$50.00		\$650.00
19%	14	\$50.00		\$700.00
20%	15	\$50.00		\$750.00
>20%	>16	\$50.00		(Annual Utilization - 5% x \$50.00)

Formula: Take the Multiplier Rate representative of the Annual Percent Utilization and multiply it by the dollar value shown in the tier.

**Schedule I**

**IDENTIFICATION OF LOCATION OF LICENSED SPACE AND ELECTRIC VEHICLE CHARGING STATIONS**

Each proposed location, represented by a pink dot/red "X", as seen below, will have 02 x 120 kW DCFC station installed (4 ports) pending awarded incentives.



Site mockups to be provided by CSG prior to implementation for each site.