

Model Revenue Sharing Agreement between Land-Owning Agency (LOA) and Charge Point Operator (CPO) for deployment of Public EV Charging Stations

This agreement is entered into this day of <YYYY> at, India.

BETWEEN

M/s. <Insert Name of Land Owning Agency> which expression shall unless repugnant to the context or meaning thereof, include successors and assigns of the **FIRST PART**.

AND

M/s. <Name of CPO> a Company registered under the 1956 Act, having its registered Office at <CPO registered address> (hereinafter referred to as “<CPO>” which expression shall mean and include its successor(s), administrator(s) and assigns) of the **SECOND PART**.

<LAND OWNING AGENCY> and <CPO> are hereinafter individually referred to as the “Party” and collectively as the “Parties”.

WHEREAS:

- A. <Details of <LAND OWNING AGENCY> (Name & Address)>.
- B. <Details of CPO (Name & Address)>.
- C. <CPO> intends to establish, setup and operate Charging Point(s) (*defined herein below*) for charging of electric vehicles at identified sites operated by <<LAND OWNING AGENCY> Name> and <LAND OWNING AGENCY> intends to grant permission to <CPO NAME> to set up Public EV Charging Stations at selected sites in (hereinafter referred as “**Public Charging Station Locations/ SOL**”) and manage the same at <LAND OWNING AGENCY> sites on mutually agreed terms and conditions outlined in this Agreement.
- D. In consideration of the above, this Agreement sets out the intent of the Parties in relation to the said proposal.

NOW THEREFORE, in consideration of the mutual covenants, terms, conditions and understandings set forth in this Agreement, the Parties hereby agree as follows:

1. Definitions

The following capitalized terms wherever used in this AGREEMENT shall have the meanings given hereunder:

“**Public EV Charging Stations(s)**” means a device or station that supplies power to charge the batteries of an electric vehicle;

“**CPO**” mean Charger Point Operator.

“**AC**” shall mean Alternating Current Charging;

“**DC**” shall mean Direct Current Charging;

“**GST**” shall mean Goods and Services Tax;

“**Installation Work**” means the construction and installation of the Public Charging stations and upstream supply, (if required) System and the operation and maintenance thereof, all performed by or for <CPO NAME> at the identified site.

“**KW**” shall mean rating of public EV Charger;

“**Operating Cost**” shall include direct electricity energy charge payment through payment gateway service provider appointed by <CPO NAME>, salary of supervisor or equivalent level person designated for managing the backend system, salary for semi-skilled/ skilled workers appointed by <CPO NAME> for maintenance of chargers, annual maintenance cost of chargers, telecommunication cost, IT System cost and customer support;

“**Projects/ Charging Locations** shall have a meaning ascribed in above Recital C hereof;

“**SOL**” means sites owned and/or operated by <LAND OWNING AGENCY>.

“**Term**” shall mean 10 years with Annual Maintenance Cost (AMC) starting from the earlier of: (a) six months from the Effective Date, or (b) the date of installation of the last Charging Point at the identified SOL in terms of this Agreement.

Effective Date: DD/MM/YYYY

“**System**” includes the Charging Points, assemblies, converters, switches, wiring devices and wiring, and all other material/civil works comprising the Installation Work.

2. Proposal

- a. M/s CPO Name has proposed to establish and operate up to no. of Public Electric vehicle Charging Point(s) at SOL owned and/or operated by Land owning agency. For Setting up of such Public EV charging stations by M/s CPO, Land owning agency would provide the required space of about Sq. Ft within the premises of the identified locations subject to feasibility in order to develop the required infrastructure for charging of electric vehicles.

- b. The Parties are keen to develop partnership for the Projects/ Public EV Charging Locations at <Location Address> and may discuss further expansion at other locations, at the sole discretion of M/s <CPO Name>.
- c. The Parties shall jointly select the identified locations based on availability of space and feasibility of operation of the Public Charging Stations without affecting regular operation of the identified locations.
- d. M/s <CPO NAME> agrees to establish, setup and operate nos. of charging points at each public charging station. The Charging Station shall have chargers in accordance with Guidelines notified by the Ministry of Power. The charging infrastructure so installed shall comply with the government/ministry of power guidelines and regulations for performance, safety & quality from time to time.
- e. M/s <CPO NAME> agrees to invest in setting up and operating the public charging stations including separate power connection, transformer and meter, if required, at its own cost, and shall upgrade and refurbish the Public Charging Stations, in line with the technology advancements and business needs, from time to time. The cost of electricity including surcharge, duty, contingency for power purchase adjustment charges, etc. and all operating and maintenance expenses related to Charging Points shall be borne by M/s <CPO NAME>.
- f. The Parties agree that the Public Charging Stations may be operated through a cloud-based solution technology developed and owned by M/s <CPO NAME> and manpower deployed at the identified locations by M/s <CPO name>
- g. The Parties agree that all applicable statutory approvals/ permissions from the respective authorities for the Public Charging Stations shall be procured and obtained by M/s <CPO NAME>. <LAND OWNING AGENCY> shall provide all assistance to M/s <CPO NAME> to enable M/s <CPO NAME> to obtain the consents, clearances and permits, and the governmental approvals in a timely manner in connection with the Project. Further, <Land owning agency> agrees to assist in obtaining separate power connection or enhancing the power supply at each location, if required by M/s <CPO NAME> in connection with the Project.
- h. M/s <CPO NAME> shall arrange deployment of qualified and suitable manpower and required necessary tools, logistics, spares & consumables during installation, commissioning and O&M of Public EV charging stations at SOL. <LAND OWNING AGENCY> hereby grants to M/s <CPO NAME> a right, co-terminus with the term to ingress and egress the location and access to electrical panels and conduits to interconnect or disconnect the System with the SOL electrical wiring.
- i. Safety is of paramount importance and M/s <CPO NAME> shall take all safety precautions in connection with the setting up and operation of the Public Charging Stations to ensure safety to the user. <LAND OWNING AGENCY> agrees to ensure to provide safe and secure environment to install and operate the System. In the event of any damage to the land-owning agency facilities, property due to any fault in the M/s <CPO NAME>'s equipment, M/s <CPO NAME> will be liable to make good the losses to SOL for the same. <LAND OWNING AGENCY> shall be responsible for the loss incurred by M/s <CPO NAME> limited to Public Charging Stations and established infrastructure due to gross negligence or willful default on the part of <LAND OWNING AGENCY> or their agents/ employees.

- j. <LAND OWNING AGENCY> agrees and confirms that the Public Charging Locations (including the unfettered access to the identified space for the respective <LAND OWNING AGENCY>) shall be free from encumbrances or hindrances, and if during the installation and operation period, the same is identified by M/s <CPO NAME>, then <LAND OWNING AGENCY> shall remove the encumbrance or hindrance or provide suitable space for the System within the same location at the cost and expense of <LAND OWNING AGENCY> with immediate effect.
- k. The Parties agree to jointly undertake the planning, design, setting-up and implementing the Projects/ Public Charging Stations at the respective <LAND OWNING AGENCY>. The Parties, *inter-alia*, agree to ensure; (a) Planning and designing the charging infrastructure in relation to the Projects; (b) Investment in the Projects by M/s <CPO NAME>; (c) Operating and maintaining the Projects by <CPO Name>; and (d) Managing the Projects using cloud-based solution system software.
- l. <LAND OWNING AGENCY> shall not directly or indirectly cause, create, incur, assume, or suffer to exist any lien on or with respect to the System or any interest therein. The Project and the System shall remain the property of M/s <CPO NAME> and shall not attach to or be deemed a part of, or fixture to the <LAND OWNING AGENCY>. Neither <LAND OWNING AGENCY> nor its lessees or tenants or any other Person shall have any right, benefit, or interest in the Project.
- m. <LAND OWNING AGENCY> shall provide sufficient space at the provided location for the temporary storage and staging of tools, materials, equipment and facilities reasonably necessary during the Installation Work, or Project removal, and access for rigging and material handling.
- n. Wherever separate power connection to Public EV Charging Stations is not mandated/ not provided, <LAND OWNING AGENCY> shall provide required power to M/s <CPO NAME> for the maintenance and operation of its System at the rate <LAND OWNING AGENCY> is paying to the distribution utility at the relevant SOL and M/s <CPO NAME> shall reimburse the same to <LAND OWNING AGENCY> on actuals. In case, requires additional transformer or any expenses for providing the power, the same shall be incurred by M/s <CPO NAME>. In the event of the Govt. announcing a policy for subsidized power charges for EV charging stations, then M/s <CPO NAME> shall make necessary arrangements including separate meter and approvals as required at their own cost to avail the lower tariff.
- o. Any other activities considered necessary for setting up Public Charging Stations for electric vehicles at provided locations or other suitable locations on mutually agreed covenants/commercials arrangements, which are not specifically set out herein, but which may be identified at a later date, shall be included by mutual discussion and consent of Parties.
- p. The number of identified locations considered for Public EV Charging Stations would not be a binding number and could be amended seeing the potential, increase in business volume, less vehicle turnaround etc., if any.
- q. The number of Public EV Charging Stations in a cluster would be tentative and could increase / decrease subject to joint agreement between <LAND OWNING AGENCY> and M/s. <CPO NAME>. The addition or deletion of EV Charging Stations could be subsequently conveyed to each other in writing.

r. Branding: <LAND OWNING AGENCY> and M/s. <CPO NAME> shall do joint branding of the venture so as to create positive long-term association, market penetration, to create synergies based on unique strengths of each parties/brand, gain market share and increase revenue and also to boost the reputation of the parties in this project.

3. Payment of License Fee, Revenue Share and Billing Cycle raising of invoices, release of payments, security deposit etc.

(a) M/s. <CPO NAME> to pay <LAND OWNING AGENCY> Rs. xxx/kWh which shall be ₹ 1.0 / kWh in case of such CPO being a Government/Public Entity or at discovered price through bidding with floor price of ₹ 1 / kWh in case CPO being a private entity of billed units(kWh) from charging business starting from 1st year, of billed units from charging business to <LAND OWNING AGENCY> within days after end of Quarter.

(b) For the purpose of revenue sharing, M/s <CPO NAME> shall furnish the complete details of accounting of the billed units to <LAND OWNING AGENCY> for transparency and shall be governed by confidentiality under this Agreement.

M/s <CPO NAME> shall promptly pay the bill on monthly basis within 10 days of demand for electrical energy consumed for charging electric vehicles at the said locations as per actual minimum charges /as per actual. The charges should be paid to the <LAND OWNING AGENCY> till such time a separate meter is obtained in the name of <CPO NAME>. After obtaining a separate meter in the name of <CPO NAME>, the electricity charges shall be directly paid by <CPO NAME> based on the electrical energy consumed for charging EVs at each SOL. Dispute resolution mechanism of electricity bills, if any, to be taken up with relevant Discom with support from land owning agency.

4. Payment of Taxes

M/s <CPO NAME> shall pay all the statutory levies and taxes imposed by the Government or any other authorities present or future on the operation of EV charging stations. Further, M/s <CPO NAME> shall also pay to <LAND OWNING AGENCY> increase in the taxes and/or any levies on the land area used specifically for Public EV charging station, by any local authority including Municipal corporation/municipality/gram panchayat or any other statutory authority or by the government except property tax. <LAND OWNING AGENCY> shall pay property tax.

5. Insurance

M/s <CPO NAME> shall at all times and from time to time at its own cost and expense take out adequate and proper insurance during the continuance of this agreement from a well reputed insurance company against all risks including third party risk to persons and properties, fire and explosion risk and riot risks etc. covering operation of the Public Charging stations installed at SOL.

6. Standard Indemnification

Each party (indemnifying party) agrees to indemnify, defend and hold the other party (indemnified party) harmless from and against:

- a. Any third party claim (including intellectual property infringement claim), liability, obligation, loss, damage, deficiency, assessment, judgement, cost or expense (including, without limitation to costs and expenses incurred in preparing and defending against or prosecuting any third party litigation, claim, action, suit proceeding or demand) of any kind or character, arising out of or in any manner solely attributable to any failure of the indemnifying Party to perform its obligations described hereunder, gross negligence or wilful misconduct in the fulfilment of its obligations hereunder or for infringing the intellectual property rights of any third party.
- b. Any claim, liability, obligation, loss, damage, deficiency, assessment, judgement, cost or expense (including, without limitation to costs and expenses incurred in preparing and defending against or prosecuting any third party litigation, claim, action, suit proceeding or demand) of any kind or character arising from claims or sanctions or penalties imposed by any regulatory authority for failure by a Party or any of its respective officers, directors, employees, servants, sub-contractors or agents to comply with any applicable laws, rules and regulations.
- c. Any claim, liability, obligation, loss, damage, deficiency, assessment, judgement, cost or expense (including, without limitation to costs and expenses incurred in preparing and defending against or prosecuting any third party litigation, claim, action, suit proceeding or demand) of any kind or character with respect to any damage to or loss of property of a third party arising out of acts or omissions by a Party or any of its respective officers, directors, employees, servants, sub-contractors, or agents in the performance of its obligations under this agreement.

7. Term & Termination

7.1 This Agreement shall come into force from the Effective Date of this agreement and remain in force during the 'Term' as defined under Definitions above. The agreement shall be further extended for a period as decided and agreed mutually in writing by the Parties. The Agreement may be terminated / exited by the Parties prior to the scheduled validity period due to any one of the following reasons:

- a. Any misrepresentation, breach or violation of the terms of this Agreement by either of the Parties;
- b. If <LAND OWNING AGENCY> fails to provide the Charging Locations for locating the Charging Points at the identified SOL or M/s <CPO NAME> failing to install the charging Points at the identified SOL within a reasonable time as agreed mutually; and
- c. With mutual consent of both the parties without assigning any reason.

7.2 Upon such early termination, M/s <CPO NAME> shall have the right to dismantle all the System, equipment and Charging Points and take control in its custody, the Charging Points, System and equipment. <LAND OWNING AGENCY> shall have no right to claim and recover any of the Charging Points and the System from any

Charging Locations at the identified locations and the equipment/ infrastructure establishment by M/s <CPO NAME>.

8. Representations and Warranties

Each Party represents and warrants to the other Parties that:

- (a) it has power to execute, deliver and perform its obligations under the Agreement and all necessary corporate and other actions have been taken to authorise such execution, delivery and performance;
- (b) it has all requisite power and authority, and does not require the consent of any third party to enter into this AGREEMENT and grant the rights provided herein;
- (c) it is in compliance with all applicable laws and regulations, as may be applicable to it.
- (d) the execution, delivery and performance of its obligations under the Agreement does not and will not: (i) contravene any applicable law, or any judgment or decree of any court having jurisdiction over it; or (ii) conflict with or result in any breach or default under any agreement, instrument, regulation, license or authorisation binding upon it or any of its assets.
- (e) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof; and
- (f) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this AGREEMENT.

9. Confidentiality

9.1. During the subsistence of this Agreement and after termination or expiration of this Agreement for any reason whatsoever, the Party receiving any information and/or document which are marked as Confidential (hereinafter referred to as the "Confidential Information") shall:

- a. Keep the confidential Information confidential;
- b. Do not disclose the Confidential Information to any other person without the prior written consent of the Party disclosing such information (hereinafter referred to as the "**Disclosing Party**") except to its employees, agents, shareholders, investors, partners and advisors on a strictly need-to-know basis, and upon such person executing a non-disclosure undertaking in respect of the Confidential Information in a format reasonably satisfactory to the Disclosing Party;

- c. Do not use the Confidential Information for any purpose other than the performance of its obligations under this Agreement; Without the prior written consent of the Disclosing Party, not to make a public announcement or any other disclosure of the Confidential Information except as required by any legal stipulation applicable to it. In case of such disclosure required by legal stipulation, a Party which is required to make such disclosure shall, as soon as practicable after it is made aware of the requirement to make such disclosure, inform the Disclosing Party of the need to disclose such Confidential Information, the content thereof and the legal stipulation which requires disclosure of such Confidential Information.

9.2. The obligations contained in the relevant clauses above shall not apply to any Confidential Information which:

- a. is at the date of this Agreement or at any time after the date of this Agreement comes into the public domain other than through breach of this Agreement by such Party; can be shown by the Party receiving the information to the reasonable satisfaction of the Disclosing Party that the same was known to such Party prior to the disclosure;
- b. subsequently comes lawfully into the possession of the Party receiving such information from a person other than the Disclosing Party; or
- c. such information which any Party is required to disclose by law, by a court of competent jurisdiction or by another appropriate regulatory body, provided that the Party required to disclose shall use reasonable endeavors to consult with the Disclosing Party and take into consideration is reasonable requests in relation to such disclosure.

10. Notice

All communication, demand and notices required to be sent under this Agreement shall be sent or delivered to the receiving Party at the address set forth herein, or at such other address as the Parties may from time to time designate in writing:

M/s <CPO NAME>:

Address :-

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.....
.....
.....

Fax No.:

Email id :-

LOA:

Address:

Email id:-

Any Notice, demand or other communication shall be sent by registered post / hand delivery.

11. Intellectual Property Rights

Intellectual Property Rights owned by each respective Party shall remain the property of such Party and nothing in this AGREEMENT shall be taken to represent an assignment, license or grant of other rights in or under such Intellectual Property Rights to the other Party. All right, title and interest to all Intellectual Property of each Party as of the Effective Date of this AGREEMENT, including that which is or may become protectable by patent, copyright, trademark, trade secret or similar law, shall remain exclusively with that Party.

12. Governing Law and Jurisdiction

This AGREEMENT shall be governed by and construed in accordance with the laws of India. Courts at <City, State>, India shall have exclusive jurisdiction in respect of matters arising out of or in relation to this AGREEMENT.

13. Dispute Settlement

The Parties hereby agree that they shall work together to resolve any disputes that may arise under, in relation to or in connection with this Agreement (referred to in this clause as a “**Dispute**”). In the event such Dispute is not resolved amicably within 60 (sixty) days of the date of receipt of notice issued by disputing party with respect to same by the non- disputing party then in such case all Dispute shall be settled by binding arbitration pursuant to the Arbitration and Conciliation Act, 1996, as amended (“**Arbitration Act**”), in following manner:

If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with or arising out of this agreement, such dispute or difference shall be resolved through arbitration as per the procedure mentioned herein below:

- a. The dispute or difference shall be referred to a sole arbitrator.
- b. The arbitration shall be through High Court Mediation and Arbitration Centre at High Court of Judicature at <city name> for the state of <state name>.
- c. The rules of the above mentioned Institutional Arbitration Forum shall be applicable to the arbitral proceedings.
- d. The Indian Arbitration & Conciliation Act 1996 and Arbitration and Conciliation (amendment) Act 2015 or any statutory modification or re-enactment thereof and the rules made there under for the time being in force shall apply to the arbitration proceedings under the clause.
- e. The seat of arbitration shall be at <city name>, <state name>, India.
- f. The proceedings shall be conducted in English language.
- g. The cost of the proceedings shall be equally borne by the parties, unless otherwise directed by the sole arbitrator.
- h. The following shall not be referred to arbitration:
Disputes having financial claims less than Rs. 5 Lakhs.

Notwithstanding anything contained herein above (except 'h') upon arising of dispute the parties may agree to refer the same to arbitration of mutually acceptable sole arbitrator.

14. Limitation of Liability

Notwithstanding anything in this AGREEMENT to the contrary and to the extent permitted by applicable law, in no event shall either Party, its officers, directors, or employees be liable for any form of incidental, consequential, indirect, special or punitive damages of any kind, or for loss of revenue or profits, loss of business, loss of information or data, or other financial loss, whether such damages arise in contract, tort or otherwise, irrespective of fault, negligence or strict liability or whether such Party has been advised in advance of the possibility of such damages. A Party will not be in breach of the AGREEMENT or be liable to the other Parties if it fails to perform or delays the performance of an obligation as a result of an event beyond its reasonable control, including, legislation, regulation, order or other act of any Government or Governmental agency.

15. Waiver

Failure of a Party to require performance of any provision of this Agreement shall not affect such Party's right to full performance thereof at any time thereafter, and any waiver by a Party of a breach of any provision hereof shall not constitute a waiver of a similar breach in the future or of any other breach. No waiver shall be effective unless in writing and duly executed by the concerned Party.

16. Assignment

Except as provided in this Agreement, none of the Parties shall be entitled to assign their rights and obligations under the Agreement to a third party without the prior written consent of the other Party, except to its affiliate companies

17. Amendment

No modification or amendment to this Agreement and no waiver of any of the terms or conditions hereof shall be valid or binding unless made in writing and duly executed by the Parties.

18. Severability

If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision will be struck from the Agreement and the remaining provisions of this Agreement shall remain in full force and effect. Further, the Parties shall endeavour to replace such provision with a valid, legally enforceable provision that reflects the original intent of the Parties.

19. Entire Agreement

This Agreement supersedes all prior discussions and agreements (whether oral or written, including all correspondence) if any, between the Parties with respect to the