

NEXTENERGY CENTER
SMART PARKING LABORATORY USER AGREEMENT

THIS SMART PARKING LAB USER AGREEMENT (the “**Agreement**”) is made effective as of _____ (the “**Effective Date**”) between NextEnergy Center, a Michigan nonprofit corporation, having offices at 461 Burroughs Street, Detroit, Michigan 48202 (“**NEXTENERGY**” or “**SPL Administrative Partner**”) and _____ having offices at _____ (the “**User**”; together with NEXTENERGY, the “**Parties**” and each, without distinction, a “**Party**”).

NEXTENERGY is a not-for-profit consultancy working with innovators to accelerate smarter, cleaner, more accessible solutions for communities and cities located in Michigan.

NEXTENERGY operates a smart parking laboratory (lab) in the parking structure owned by Corktown Lofts LLC (the “**Property Owner**”) and located at 1701 West Lafayette Boulevard, Detroit, MI 48216 (the “**Parking Structure**”) pursuant to that certain Smart Parking Lab (SPL) Administrative Services Agreement, bearing a date of November 1, 2022, NEXTENERGY and the SPL Sponsors (as defined below) (the “**Services Agreement**”).

User desires to use the Facility for purposes of testing or demonstrating smart parking and related technologies.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Definitions

- 1.1. “**NEXTENERGY Equipment**” means equipment, including any software, provided by NEXTENERGY to the User in support of User’s activities at the Facility.
- 1.2. “**NEXTENERGY Services**” shall have the meaning set for the in Section 6.1.
- 1.3. “**Collaboration Data**” means, other than User Project Data, Collected Data and all information, data, and other content, in any form or medium, that is generated, produced, collected or processed for the purpose of the SPL’s operation, management and promotion during the duration of the Term.
- 1.4. “**Collected Data**” means any data containing Facility details, collected, generated, or processed by User, its employees, contractors, or representatives in the course of using the Facility.
- 1.5. “**Facility**” means the areas of the Parking Structure and the NEXTENERGY Equipment dedicated to the SPL.
- 1.6. “**Fees**” means the fees payable by the User for the use of the SPL, as prescribed in Exhibit B attached hereto.
- 1.7. “**Property**” means the real property owned by the Property Owner, of which the Parking Structure is a part.

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- 1.8. **“Smart Parking Lab”** or **“SPL”** means the innovation initiative established by the SPL Sponsors and operated by the SPL Administrator pursuant to the SPL Service Agreement for the development, testing, demonstration and evaluation of mobility and parking-related technologies and concepts including, but not limited to, first and last mile logistics and electric vehicle charging infrastructure.
- 1.9. **“SPL Sponsors”** means the parties that are collaborating to sponsor the creation of the SPL and who are parties to the SPL Services Agreement in addition to NEXTENERGY, including Bedrock Management Services LLC, Ford Motor Company; Michigan Economic Development Corporation; and Robert Bosch.
- 1.10. **“SPL Administrative Partner”** means Park Rite Paring Inc. who is a party to the SPL Services Agreement.
- 1.11. **“Technology”** means, with respect to a Party, all know-how, designs, engineering and test data, manufacturing methodology, software, algorithms, and other technical information, whether or not patentable, conceived or reduced to practice by such Party.
- 1.12. **“Term”** means the term of this Agreement, which shall be coincident with the term of the User Project as described on Exhibit A attached hereto, unless sooner terminated as provided in Section 8.2.
- 1.13. **“User Equipment”** means equipment provided by the User to execute the User Project, including, but not limited to, scientific measure, testing equipment, and test vehicles.
- 1.14. **“User Project”** means all User activity conducted in the SPL for development, demonstration, or deployment of smart parking technology, as more particularly described in Exhibit A attached hereto, along with the term of the User Project.
- 1.15. **“User Project Data”** means information, data, and other content, in any form or medium, that is generated, produced, collected, or processed as part of the User Project, other than data that is related to the operation, management and promotion of the SPL.
- 1.16. **“User Resources”** means deployment and testing plans, qualified staff, equipment, technology and supplies proved by the User for the User Project, as applicable.
- 1.17. **“User Temporary Storage”** means locations at the Facility designated by NEXTENERGY for overnight, temporary storage of User Equipment and User Resources while the User is conducting the User Project.

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2. Access.

- 2.1. Access. Subject to the terms of this Agreement and in consideration of the Fees payable to NEXTENERGY, NEXTENERGY agrees to provide User with shared or exclusive access, as appropriately designed by NEXTENERGY, to the facility for the sole and exclusive purpose of conducting the User Project (the “**Access**”).
- 2.2. Access Hours. The Facility’s standard operating hours are 8:00am to 5:00pm U.S. Eastern Time, Monday through Friday. User’s Access must be scheduled and approved in advance and in writing by NEXTENERGY. Requests for Access beyond the standard operating hours are subject to NEXTENERGY’s approval on a case-by-case basis. Approved test hours and the test areas available for Access may vary from test to test based on scheduled events.
- 2.3. Scheduling. User must submit all requests for Access on forms provided by NEXTENERGY. NEXTENERGY will endeavor to promptly process all requests. NEXTENERGY will not approve requests for Access or NEXTENERGY Services more than one (1) month in advance, provided that NEXTENERGY, in its sole discretion, may approve requests for Access made more than a month in advance, subject to conditions as may be imposed by NEXTENERGY to allow flexibility for operations of the Facility. NEXTENERGY shall make reasonable efforts to meet User’s timing requests for Access. NEXTENERGY may delay or refuse provision of Access for any reason. User’s sole remedy for any delay or refusal to provide Access is the refund of any prepaid Fees.
- 2.4. No Property Right. Notwithstanding any Access provided by NEXTENERGY under this Agreement, User certifies, represents, warrants, and agrees that User (i) has no right, title or interest in or to the Facility or to any portion of Facility and (ii) has not, does not, and will not claim any ownership, tenancy, easement, license or any other property right, however characterized, in, to, on or over the Facility. User agrees that User’s right to Access and any rights to the Facility are solely and exclusively set forth in the Agreement and User waives all rights at law, in equity, or statutory to have any greater rights in and to the Facility.
- 2.5. Security of SPL and Information Systems. NEXTENERGY warrants that it will implement and maintain reasonable physical, technical, and administrative measures to restrict unauthorized access to (i) Facility (ii) information systems controlled or provided by the Property Owner, including, but not limited to, the WiFi network serving the Facility. User acknowledges that the Facility and related test areas are visible to the public due to the nature of external fencing structure of the Facility.
- 2.6. Guests. During the Term, User may have customers, dignitaries, and others, including, but not limited to, personnel and guests (each, a “Guest”) visit the Facility to experience the User Project. Each Guest will comply with all safety and security policies related to the Parking Structure and provided to the User in writing by NEXTENERGY. NEXTENERGY will manage and coordinate access for all Guests.

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3. Fees.

- 3.1. Fees and Payment. Unless otherwise agreed, User will pay NEXTENERGY the Fees, without setoff, recoupment, or deduction of any kind, in United States Dollars, and within thirty (30) calendar days after receipt of an invoice from NEXTENERGY. User shall be liable to pay for scheduled Access whether or not used, unless the Access is cancelled by NEXTENERGY. If NEXTENERGY is notified by the User at least five (5) business days in advance that User is cancelling an Access session, NEXTENERGY may, but is not obligated to, make reasonable efforts to schedule another paying Facility user who will use the cancelled session and if scheduled, reduce User's obligation to pay the Fees for such cancelled session.
- 3.2. Additional Fees for Additional NEXTENERGY Services. In the event that User requests from NEXTENERGY services in addition to the NEXTENERGY Services and NEXTENERGY is willing and able to provide any such additional services, the Parties shall mutually agree upon an acceptable fee for such additional services prior to creating any obligation to provide or pay for such additional service. All such additional services will be treated as NEXTENERGY Services and any additional fees will be treated as Fees, in each case, for purposes of the Agreement.

4. User Resources and Equipment.

- 4.1. User Resources. Unless provided by NEXTENERGY as NEXTENERGY Services, User will develop and provide its own User Resources. User agrees that none of the NEXTENERGY, Property Owner or SPL Sponsors, or any of their respective employees, subcontractors or agents, will be responsible for, or liable to, User for any User Resources and User is providing all User Resources at its sole risk and expense. All elements of the User Project are subject to a safety review and imposition of risk mitigation measures by NEXTENERGY personnel at any time prior to or during the course of the User Project.
- 4.2. User Equipment. Unless provided by NEXTENERGY as part of the NEXTENERGY Services, User must provide and use its own User Equipment for the User Project.
- 4.3. Storage. If available, the User may store User Equipment and User's other personal property necessary for the User Project in User Temporary Storage, but at User's sole risk. User must make a written request for User Temporary Storage to NEXTENERGY and all requests for User Temporary Storage are subject to NEXTENERGY review and written approval. If User Temporary Storage is approved, User will be charged the applicable Fees therefor.
- 4.4. Loss/Damage. User bears all responsibility for loss of or damage to (i) any User Equipment or materials constituting User Resources within the Facility (whether in or outside of the User Temporary Storage) regardless of cause, (ii) NEXTENERGY Equipment during User's use of the NEXTENERGY Equipment, and (iii) the Parking Structure as a result of the User's actions. User will be responsible for adequately insuring User Equipment and User Resources against loss or damage, with the adequacy of such insurance determined in User's sole discretion. User assumes all risks of dangerous conditions, if any, associated with the Access or any NEXTENERGY

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Services provide on the Facility. NEXTENERGY and the Property Owner will have no liability to any person or entity (including User) for any loss or damage to User Equipment caused by third parties. If NEXTENERGY determines that any element of the User Project could involve a safety risk to the individual(s) performing such element, NEXTENERGY reserves the right to prohibit such procedures or require the User and such individuals to sign liability waivers in favor of NEXTENERGY.

5. User Obligations and Restrictions

- 5.1. Obligations. User will, in all cases, conduct the User Project as described on Exhibit A attached hereto and follow NEXTENERGY safety protocols and risk mitigation steps resulting from NEXTENERGY's review and any alterations to the User Project so described.
- 5.2. Access Restrictions. During the Term, User will:
- a. use the Facility only as allowed under this Agreement;
 - b. comply with all safety, operational, and security guidelines applicable to the Facility;
 - c. comply with all applicable Federal, State and local laws and regulations;
 - d. keep the User Temporary Storage area, safe, clean and in proper condition;
 - e. keep the Facility safe, clean and in proper condition;
 - f. make no alterations to the Facility, without the prior written consent of NEXTENERGY, which NEXTENERGY may not grant without permission from the Property Owner, which may withhold such permission in its sole and absolute discretion; provide that the User may make minor, temporary alterations, such as moving the location of moveable signs, with just the consent of NEXTENERGY; and
 - g. reimburse NEXTENERGY its reasonable costs for all repairs and replacements (including structural) resulting from any damage to any part of the Facility arising out of User's use thereof or other acts or omissions.
- 5.3. Conduct of User. In addition to the above, User agrees that it will conduct all activities, operations, or work performed by the User, its agents, employees, contractors, and invitees on and about the Facility so as not to interfere with or inconvenience NEXTENERGY, other Users of the Facility, and users of the Parking Structure. NEXTENERGY will have the right, in its sole discretion, to direct User to stop any activity that NEXTENERGY, in its reasonable judgement, finds is causing or could cause unnecessary danger to the Facility and/or Parking Structure, NEXTENERGY's other users, employees, agents, contractors and invitees and other persons located on the Facility and/or Parking Structure. Operation of vehicles at speeds of over 20MPH and limit handling is not permitted.

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- 5.4. Safety Prior to use of the facility, User will complete a safety review with NEXTENERGY and/or its contractors". "Any operator of a vehicle within the SPL must hold a valid motor vehicle operation license issued by an authorized state, Federal or international jurisdiction and complete a safety review with NEXTENERGY and/or its SPL Administrative Partner or contractors. NEXTENERGY shall have the right to exclude any individual driver of User, in NEXTENERGY's sole discretion. User agrees that the safety review is provided "as-is" and that neither the safety review nor NEXTENERGY's permission for a driver to operate shall increase NEXTENERGY's liability under this Agreement.
- 5.5. Use of Names. User shall not state or imply in any publication, advertisement, or other medium that the test results, or any product or service bearing any of the User's or User's customers' names or trademarks has been approved or endorsed by NEXTENERGY or any SPL Sponsor. User shall not use the name of NEXTENERGY or any SPL Sponsor, or make reference to the Access or NEXTENERGY Services, in any publicity without the prior written approval of NEXTENERGY or SPL Sponsors. Neither NEXTENERGY nor any SPL Sponsor will not use the name of User in any publicity without the prior written approval of User.
- 5.6. Insurance. During the Term, User must comply with the insurance requirements set forth in Exhibit C attached hereto.
- 5.7. Compliance with Laws and Environmental Requirements. At all times while on the Facility, User shall comply with all laws, ordinances, rules, and regulations applicable to the Facility or the User's activities on the Facility, including, but not limited to, any NEXTENERGY rules, regulations, policies or procedures. In addition, User must comply with environmental requirements for the Facility set forth in Exhibit D attached hereto.

6. NEXTENERGY Services and Equipment, and Operation of the Facility.

- 6.1. NEXTENERGY Services. Subject to the terms, conditions, and limitations set forth in this Agreement, NEXTENERGY agrees to provide or make available to User the services set forth on Exhibit B attached hereto (collectively, "**NEXTENERGY Services**"). To maximize availability of NEXTENERGY Services to User when needed, User must request NEXTENERGY Services through NEXTENERGY at least three (3) business days in advance of the date the NEXTENERGY Services are needed. NEXTENERGY does not guarantee the availability of the NEXTENERGY Services but will use commercially reasonable efforts to make them available.
- 6.2. NEXTENERGY Equipment. To the extent available, User may request use of NEXTENERGY Equipment. All use of the NEXTENERGY Equipment (i) must be requested in advance by User to NEXTENERGY designated representatives, and (ii) will be subject to payment by the User of the applicable Fees. Prior to using or accepting any NEXTENERGY Equipment, User must inspect the NEXTENERGY Equipment and satisfy itself that the NEXTENERGY Equipment is safe and suitable for User's purposes. User's use of the NEXTENERGY Equipment will constitute User's acknowledgement that the NEXTENERGY Equipment is safe and suitable for User's purpose. NEXTENERGY, in its sole discretion, will determine if NEXTENERGY Equipment can be used by

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the User or if NEXTENERGY engineering and technical staff (via NEXTENERGY Services) will be required to operate the equipment on behalf of the User.

- 6.3. NEXTENERGY Contractors. User acknowledges and agrees that NEXTENERGY may discharge all or any part of its obligations under this Agreement to provide NEXTENERGY Services to one or more third party contractors to NEXTENERGY (each a “**NEXTENERGY Contractor**”). Each NEXTENERGY Contractor shall be entitled to exercise all of the rights and obligations of NEXTENERGY under this Agreement with respect to the NEXTENERGY Services that are within the scope of its contract with NEXTENERGY.
- 6.4. Maintenance. NEXTENERGY shall maintain the Facility, or cause it to be maintained, in reasonably good order and condition and will maintain insurance in commercially reasonable amounts for NEXTENERGY’S activities under this Agreement. NEXTENERGY shall not be liable or responsible for any interruption in any utilities or services (including NEXTENERGY Services) that are due to causes beyond NEXTENERGY’S reasonable control. NEXTENERGY agrees to notify User, whether individually, by posting at the Facility, or other reasonable means, of any scheduled maintenance or repairs that will occur on the Facility at least five (5) business days ahead of such maintenance/repair. NEXTENERGY will provide notice of any unplanned emergency repairs as soon as reasonably possible.
- 6.5. Right of Entry.
- a. User agrees that NEXTENERGY and the Property Owner and their respective representatives may enter any part of the Facility, including User Temporary Storage and other areas provided to User for User Equipment and other User property, at any time to:
 - i. inspect the same and exhibit the same to prospective users of the SPL, the Parking Structure and the building it serves; provided, however, NEXTENERGY will not exhibit User Temporary Storage to any such prospective users;
 - ii. determine whether the User is complying with all of its obligations under this Agreement;
 - iii. supply services to be provided by NEXTENERGY to the User or as otherwise required to maintain the Facility or the Parking Structure, including, but not limited to, making repairs, alterations, and improvements to any portion of the Facility or the Parking Structure; and
 - iv. post notices of non-responsibility.
 - b. User hereby waives any claim for damages for any injury or inconvenience to or interference with User’s business, any loss of occupancy or quiet enjoyment of User Temporary Storage area or any other loss occasioned by any such entry, except to the extent that the damage was caused by the gross negligence or willful misconduct of NEXTENERGY or the Property Owner. NEXTENERGY and the Property Owner shall at all times have and retain a key with which to unlock all of the doors in, on or about the Facility (excluding any User vaults or safes located in the User Temporary Storage). NEXTENERGY and the Property Owner shall

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have the right to use any and all means which NEXTENERGY the Property Owner may deem proper to open any doors or gates in an emergency in order to obtain entry to any portion of the Facility, and any entry to spaces on the Facility obtained by NEXTENERGY or the Property Owner by any means shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer or an eviction, actual or constructive, of User from the Facility, or any portion thereof.

- c. User agrees that any of the SPL Sponsors may enter the Facility for purposes related to the administration and/or promotion of the Smart Parking Lab. NEXTENERGY will use commercially reasonable efforts to notify the User in advance of SPL Sponsor access.

7. Liability Limits, Release, and Indemnity.

7.1. DISCLAIMER. ACCESS TO THE FACILITY, NEXTENERGY SERVICES, AND NEXTENERGY EQUIPMENT ARE PROVIDED ON AN “AS-IS” BASIS, AND USER’S USE OF THE PREMISES, ACCESS, NEXTENERGY EQUIPMENT, AND ANY NEXTENERGY SERVICES IS AT USER’S OWN RISK. NONE OF NEXTENERGY, THE PROPERTY OWNER, THE SPL SPONSORS NOR ANY NEXTENERGY CONTRACTOR MAKES, AND HEREBY DISCLAIMS, ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND RELATING TO THIS AGREEMENT (INCLUDING THE ACCESS, NEXTENERGY SERVICES, AND NEXTENERGY EQUIPMENT), WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, USE, NON-INFRINGEMENT, OR MERCHANTABILITY.

7.2. LIMITATION OF LIABILITY. IN NO EVENT SHALL NEXTENERGY, ANY NEXTENERGY CONTRACTOR, THE PROPERTY OWNER OR ANY SPL SPONSOR BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES OR EXPENSES (INCLUDING LOST PROFITS OR SAVINGS) ARISING OUT OF THIS AGREEMENT (INCLUDING IN CONNECTION WITH ANY ACCESS OR NEXTENERGY SERVICES) REGARDLESS OF WHETHER THE CLAIM ARISES IN TORT, NEGLIGENCE, CONTRACT, WARRANTY, STRICT LIABILITY OR OTHERWISE, EVEN IF NEXTENERGY, ANY NEXTENERGY CONTRACTOR, THE PROPERTY OWNER OR ANY SPL SPONSOR HAVE BEEN ADVISED OF THEIR POSSIBLE EXISTENCE. USER IS ENTIRELY RESPONSIBLE FOR ANY USE OR INTERPRETATION OF THE RESULTS OF THE USER PROJECT OR OTHER DATA DERIVED FROM THE ACCESS, NEXTENERGY EQUIPMENT, OR NEXTENERGY SERVICES BY ITSELF OR THIRD PARTIES. WITHOUT LIMITING THE FOREGOING, THE TOTAL LIABILITY OF NEXTENERGY, ANY NEXTENERGY CONTRACTOR, THE PROPERTY OWNER OR OF ANY SPL SPONSOR TO USER, OR ANY PERSON OR ENTITY ACTING FOR, BY OR THROUGH USER, ARISING OUT OF THIS AGREEMENT WILL NOT EXCEED THE FEES PAYABLE TO NEXTENERGY IN THE TWELVE (12) MONTHS PRIOR TO THE DATE OF ANY CLAIM MADE THEREFOR BY USER.

7.3. Basis of the Bargain. The Parties agree that the limitations, exclusions of liability and disclaimers in Sections 7.1, 7.2 and elsewhere in this Agreement represent the Parties’ agreement as to the allocation of risk between the Parties in connection with the obligations, if any, of any of NEXTENERGY obligations, or the obligations of any NEXTENERGY Contractor, the Property

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Owner or any SPL Sponsor, if any, under this Agreement, and that such limitations, exclusions and disclaimers will survive and apply even if found to have failed of their essential purpose. The Parties acknowledge that NEXTENERGY entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth in this Agreement, and that they form an essential basis of the bargain between the Parties and are intended to benefit any NEXTENERGY Contractor, the Property Owner or any SPL Sponsor, as third-party beneficiaries.

- 7.4. Release.** In consideration of NEXTENERGY granting User permission to enter and use the Facility as set forth herein, User hereby releases and agrees to release, indemnify, reimburse, defend and hold harmless NEXTENERGY, any NEXTENERGY Contractor, the Property Owner and each SPL Sponsor, as well as their respective subsidiaries, affiliates, officers, directors, employees, agents, subcontractors (including, but not limited to, NEXTENERGY Contractors) and successor and assigns from and against all costs, fines, penalties, damages, liabilities, or expenses (including reasonable attorney fees, settlements, and judgments) arising from any claim, cause of action, demand, lawsuit, administrative claim, regulatory actions, and other proceedings arising out of or related in any way to:
- a.** activities in the Facility or the Parking Structure by User, its employees, agents, invitees, Guests, and contractors, including, but not limited to, any decision of User to enter into this Agreement to gain Access or otherwise use the Facility, NEXTENERGY Equipment or NEXTENERGY Services;
 - b.** bodily injury, death, environmental damage or property damage resulting from activities in the Facility or the Parking Structure by User, its employees, agents, invitees, Guests, and contractors, including, but not limited to, damage to, or injury arising from use of, any NEXTENERGY Equipment, User Equipment, or User Resource, except to the extent directly caused by the gross negligence or willful misconduct of the NEXTENERGY or its representatives; or
 - c.** User's use or inability to use the test results or any damage to person or property caused by any testing done by User in the Facility, including, but not limited to, any loss, damage or liabilities that may result from any claims by any individual or entity including, but not limited to, (i) User's customers, distributors, or resellers of User's products; (ii) User's employees or agents; (iii) User's vendors or suppliers; (iv) User's Guests or invitees; or (v) User's shareholders and parties having a financial interest in User.

8. Term and Termination.

- 8.1. Term.** Unless earlier terminated as provided below, this Agreement shall be in effect for the Term.

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8.2. Termination. Either Party may terminate this Agreement without cause upon no less than thirty (30) calendar days prior written notice to the other. In the event User is in default with respect to any of its obligations under this Agreement and User fails to cure the default within fifteen (15) calendar days of notification of the default, NEXTENERGY may immediately terminate this Agreement upon giving written notice to User.

8.3. Obligations on Termination. Upon the earlier of (a) termination or expiration of this Agreement, or (b) User vacating all or any portion of the Facility used by User (including any area for User Temporary Storage), User shall, at its sole cost and expense:

- a. within thirty (30) calendar days of termination notice, remove all property from the Facility not belonging to NEXTENERGY including, but not limited to, materials and/or equipment (including User Equipment or User Resources), and to the extent changed by User; and
- b. return all keys (whether physical or electronic) and security badges, if provided.

NEXTENERGY, at User's sole expense, may dispose of any User property remaining on the Facility fifteen (15) calendar days after the first to occur termination or expiration of this Agreement, or User vacating all or any portion of the Facility used by User. If User fails to vacate the Facility at the end of the Term, then NEXTENERGY may, without limiting any other right or remedy of NEXTENERGY available at law or in equity, repossess all or any portion of the Facility used by User (including User Temporary Storage), and remove any effects, without being guilty of trespass or conversion. Regardless of the reason for termination, expiration, or vacating the Facility, User shall be liable for all Fees, charges and reimbursements to the date of termination or expiration or vacating the Facility, and for any costs incurred or committed as of the date of termination, including costs associated with termination requested by User or incurred by NEXTENERGY.

8.4. Survival. Sections 1, 2.4, 3, 4.4, 5.5, 5.7, and 6 through 10 (including any other provisions of this Agreement that either expressly or by its nature is intended to survive) will survive the termination or expiration of this Agreement.

9. Confidentiality.

9.1. Confidential Information. Each Party ("**Disclosing Party**") acknowledges that the other Party ("**Receiving Party**") may have access to certain valuable information belonging to the Disclosing Party which the Disclosing Party considers confidential, including, but not limited to, test plans, test event data and vehicles, parts and supplies of any kind, correlation studies, blueprints or any likeness or representation of any portion of the Facility, information concerning the Facility and the activities thereof, any specifics of the design or layout of the Facility, dimensions of events, and event layout, methods and processes for operation of the Facility, methods and processes for testing, evaluating and correlating test results; computer programs, user manuals, testing plans, business plans, customer lists, and other trade secrets (collectively, "**Confidential Information**").

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- 9.2. Non-Disclosure.** The Receiving Party will not disclose such Confidential Information to third parties or use such Confidential Information for its own benefit, or for the benefit of third parties, except as required to perform its obligations under this Agreement. The Receiving Party shall disclose Confidential Information only to those of its employees and representatives who need to know such information for the purpose of this Agreement and shall ensure that its employees and representatives observe the confidentially obligations of this Section. The Receiving Party acknowledges that all rights in Confidential Information remain in the Disclosing Party.
- 9.3. Exclusions.** This Agreement imposes no obligation of confidentiality upon the Receiving Party with respect to any portion of the Confidential Information that: (i) now or hereafter, through no act or failure to act on the Receiving Party's part, becomes generally known or publicly available; (ii) is known to the Receiving Party at the time the Receiving Party receives same from a third party as evidenced by written records; (iii) is hereafter furnished to Receiving Party by a third party as a matter of right and without restriction on disclosure; (iv) is independently developed by the Receiving Party, provided that the person or persons developing same have not had access to the Confidential Information as furnished by the Disclosing Party; or (v) is disclosed only to the extent required by legal process or other legal authority. User acknowledges that all applicable rights in all copyrights, trademarks, trade secrets, trade names, patents and other intellectual property rights in or associated with the Facility or with User's business are and will remain exclusively in their respective owners.
- 9.4. Intellectual Property.** User acknowledges that other users of the Facility, NEXTENERGY and the SPL Sponsors, may be developing similar or competitive technologies to those of User and User waives any claim of intellectual property infringement against NEXTENERGY, its agents and the SPL Sponsors, except to the extent that User's patent rights are intentionally and willfully infringed directly by NEXTENERGY or any SPL Sponsor, or NEXTENERGY or any SPL Sponsor directly misappropriates any trade secrets of User.
- 9.5. Rights to Record Images.** Subject to the other provisions of this Agreement, NEXTENERGY reserves the right to photograph or video events occurring at the Facility, whether or not confidential in nature, for any purpose including, but not limited to, for purposes of documenting actual or potential damage to persons or property and for safety or security reasons. Except as otherwise allowed by this Agreement, NEXTENERGY will not take pictures or any other action which would compromise the confidential nature of User's property, or any testing activities conducted by User. User may not bring any person from the media (including, but not limited to, bloggers, free lancers, newspapers, magazines, and so on) onto the Facility and disclose anything about the Facility, in each case without NEXTENERGY's prior written approval.
- 9.6. Rights to Collected Data.** User acknowledges and agrees that any Collected Data shall be considered Confidential Information of the SPL Sponsors. To the extent that the User obtains any right, title, or interest in or to any Collected Data, User hereby assigns, and agrees to assign, all right, title, and interest in and to same to SPL Sponsors. User shall maintain the

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confidentiality of the Collected Data in accordance with the confidentiality and non-use obligations of this Section 9 as if any of the SPL sponsors are the Disclosing Party and User is the Receiving Party, and any of the SPL Sponsors shall have the right to assert a claim directly against the User for any breach of this Section 9.6 by User in relation to such Collected Data.

- 9.7. Mapping Data.** User may want to build a simulation model of or navigation/localization aid for the Facility in support of their on-site testing and development. In cases where User requires a digital map or model but is unable to create their own, NEXTENERGY will direct User to a mapping provider, which can provide fee-based digital mapping services. In cases where User has the ability to create its own digital map, it is free to do so without a license or royalty fee, as long as the digital map is only used for the purposes of the User Project, with no downstream sale, transference or publication. Upon the expiration or earlier termination of this Agreement, User will destroy (and certify such destruction in writing) all such models and maps relating to the Facility, and all information and data used to create or generate such models or maps and will not retain or make use of any copies, summaries, notes, or other reproductions, in whole or in part, thereof. The obligations set forth in the immediately preceding sentence shall survive the expiration or earlier termination of this Agreement. For further clarity, in cases where User has retained a mapping company to provide a map of the Smart Parking Lab, User must ensure that the mapping company will not be permitted to sell, provide to others, or publish publicly or privately any such models or maps relating to the Facility, or any information or data used to create or generate such models or maps. User is responsible to incorporate this restriction into any mapping company agreement they enter into related to the Smart Parking Lab.
- 9.8. User Project Data.** Except as expressly set forth in this Agreement to the contrary, as between the Parties, the User will own all right, title, and interest in User Project Data, and all intellectual property rights therein.
- 9.9. Collaboration Data.** The SPL Sponsors shall jointly own all right, title, and interest in Collaboration Data and all intellectual property rights therein per the terms of the SPL Administrator Services Agreement such that each SPL Sponsor shall own an equal undivided interest the Collaboration Data, with no duty to account to one another or the Parties for making, using, selling, licensing or otherwise exploiting same. To the extent that either Party has or obtains any right, title, or interest in or to such Collaboration Data or underlying intellectual property, each such Party hereby assigns, and agrees to assign, all such right, title, and interest to the SPL Sponsors so that the SPL Sponsors each own an equal, undivided interest in and to same.

10. Miscellaneous.

- 10.1. Notices.** All notices provided for or desired to be sent by the Parties shall be in writing, and shall be deemed to have been fully given when deposited in the United States mail via prepaid certified mail, or by prepaid overnight mail delivery service providing written evidence of delivery, and addressed as follows:

NEXTENERGY CENTER
SMART PARKING LABORATORY USER AGREEMENT

If to NEXTENERGY:

461 Burroughs Street
Detroit, MI 48202
Attention: CEO

If to User:

- 10.2.** Governing Law. This Agreement shall be governed by Michigan law, without regard to any conflict of laws principles that would require the application of the law of another jurisdiction. Each Party hereby consents to the exclusive jurisdiction and venue of the U.S. Federal District Court in the Eastern District of Michigan and Michigan Courts located in Wayne County, Michigan. Each Party hereby waives personal service of any and all process upon it, consents to service of process by registered mail directed to each Party at the address for notices herein and acknowledges that service so made shall be deemed to be completed upon actual delivery thereof (whether accepted or refused).
- 10.3.** Dispute Resolution. In the event of a dispute between the Parties relating to this Agreement, the one raising the matter in dispute will notify the other in a written notice describing in sufficient detail the nature of the dispute. Each Party will then appoint one or more representatives to resolve the dispute. These representatives will promptly meet and negotiate in good faith in an effort to reach a fair and equitable settlement. If by the date sixty (60) calendar days after such notice, if no settlement has been reached, either Party may end discussions, declare an impasse, and pursue any other legal or equitable remedy.
- 10.4.** Waiver. No failure by NEXTENERGY or User to insist upon the strict performance of any covenant, agreement, term, or condition of this Agreement or to exercise any right, power, or remedy consequent upon a breach of this Agreement constitutes a waiver of the breach or of the covenant, agreement, term or condition. No waiver of any breach affects or alters this Agreement, and each and every covenant, agreement, term, and condition of this Agreement continues in full force and effect with respect to any other then existing or subsequent breach.
- 10.5.** Excusable Delays. Neither User nor NEXTENERGY shall be liable for a failure to perform that arises from causes or events beyond its reasonable control and without its fault or negligence, except for User's payment obligations under this Agreement.
- 10.6.** Independent Contractor. Each Party is an independent contractor to the other in the performance of this Agreement. Nothing in this Agreement and no action taken by the Parties under this Agreement shall (a) constitute a partnership, association, joint venture or other co-operative enterprise between the Parties or constitute any Party the partner, agent or legal representative of the other, (b) make any Party hereto (or any of such Party's employees, agents or representatives) an employee of the other Party, or (c) confer on any Party any

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expressed or implied right, power or authority to enter into any contract, express or implied, or to incur any obligation or liability on behalf of the other Party.

- 10.7.** Severability. If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid, illegal or unenforceable provision.
- 10.8.** Counterparts. This Agreement may be executed in one or more counterparts and by facsimile, .pdf or DocuSign or other means of electronically imaging or evidencing a signature, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.
- 10.9.** Entire Agreement and Amendments. This Agreement contains the entire agreement between the Parties relating to the transactions contemplated by this Agreement and supersedes all previous agreements, arrangements and understandings between the Parties relating to those transactions or that subject matter. This Agreement may not be changed orally but only by an instrument in writing signed by both NEXTENERGY and User.
- 10.10.** Third Party Beneficiaries. For purposes of this Agreement and to the extent provided herein, the Property Owner, the SPL Sponsors and any NEXTENERGY Contractor shall be third party beneficiaries to this Agreement entitled to all the rights and benefits expressly accruing to them herein as if they were party to this Agreement.

NEXTENERGY and User have signed this Agreement as of the day and year first above written.

NEXTENERGY:

NextEnergy Center

By: _____

Name: Jim Saber

Title: Chief Executive Officer

USER:

By: _____

Name: _____

Title: _____

NEXTENERGY CENTER
SMART PARKING LABORATORY USER AGREEMENT

EXHIBIT A

DESCRIPTION AND TERM OF USER PROJECT

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EXHIBIT B

NEXTENERGY SERVICES AND FEES

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EXHIBIT C

INSURANCE REQUIREMENTS

User shall procure and maintain insurance continuously throughout the term of this Agreement from companies listed in the current “Best’s Insurance Guide” as possessing a minimum policy holders rating of “A-”(Excellent) and a financial category no lower than “VI”(\$25,000,000 to \$50,000,000 of adjusted policy holders’ surplus) the following insurance which shall, without limitation, cover User’s activities under this Agreement whether the activities be by itself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

Liability Insurance

- a) Statutory Workers’ Compensation Insurance for statutory limits or a state certificate of self-insurance.
- b) Occurrence type commercial general liability insurance, including blanket contractual coverage, for bodily injury including death, personal injury and property damage with limits of not less than \$5 million combined single limit per occurrence and general aggregate.
- c) Business automobile liability insurance covering all owned, non-owned and hired vehicles, with limits of not less than \$1 million combined single limit per accident basis or occurrence.

Excepting such Workers’ Compensation Insurance, the commercial general liability and business automobile liability listed above must name NEXTENERGY, the Property Owner, the SPL Sponsors as an additional insured, which requirement may be satisfied through a blanket additional insured basis.

The commercial general liability and business automobile liability insurance policies of the User shall be primary to, and will not be excess to or contributory with, any self-insurance or insurance policies carried by NEXTENERGY or any of the SPL Sponsors. The User shall provide at least thirty (30) calendar days prior written notice to NEXTENERGY in the event of insurance cancellation or material alteration of the policy. User shall furnish to NEXTENERGY an acceptable certificate of insurance evidencing the required coverage required. The furnishing of acceptable evidence of required coverage does not relieve User from any liability or obligation for which it is otherwise responsible to NEXTENERGY or any of the SPL Sponsors.

User may also use an umbrella policy to meet the limits required by this Exhibit.

User shall require that its subcontractors procure and/or maintain insurance coverage at the limits described above. User shall be primarily and fully responsible for any cost to NEXTENERGY regardless of any subcontractor’s obtaining or failing to obtain and/or maintain the required insurance.

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EXHIBIT D

ENVIRONMENTAL REQUIREMENTS

User covenants that, during the Term, User shall handle, store or dispose of any hazardous or toxic waste or substance upon the Property in a manner that is prohibited by any federal, state or local ordinance or regulation without (i) first obtaining NEXTENERGY's written consent and (ii) complying with all applicable Federal, state and local laws or ordinances pertaining to the transportation, storage, use or disposal of such materials, including, but not limited to, obtaining proper permits. User hereby covenants to indemnify, defend and hold each of NEXTENERGY, the Property Owner, and the SPL Sponsors harmless from and against any claims, suits, causes of action, costs and fees, including reasonable attorneys' fees, to the extent arising out of User's breach of the provisions of this paragraph.

NEXTENERGY advises User that a baseline environmental assessment ("BEA") was conducted with respect to the Property in accordance with Section 26 of Part 201 of the Michigan Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.20126. NEXTENERGY has delivered a copy of the BEA to User (via hand delivery, or through electronic access via email or secure website) and User acknowledges receipt of same. The BEA concludes that the Property is a "facility" within the meaning of Part 201 due to the presence of metals and other hazardous substances generally referred to as "PAHs" above Part 201 generic residential closure criteria in portions of the soil under pavement, building pads and/or landscaping, as further described in the BEA. Notwithstanding anything contained in this Agreement to the contrary, NEXTENERGY acknowledges, represents, warrants and agrees that (i) User is not responsible or liable for the existing environmental condition of the Property, and User shall not have any obligation(s) whatsoever with respect to the existing environmental condition of the Property as of the Effective Date, unless User exacerbates any such existing environmental condition, (ii) NEXTENERGY hereby waives any and all claims against User with respect or in any way related to the existing environmental condition of the Property as of the Effective Date, unless User exacerbates any such existing environmental condition, and (iii) NEXTENERGY shall indemnify, defend and hold User harmless from any and all claims, damages, liabilities, costs and expenses that User may suffer or incur as a result of or otherwise related to the existing environmental condition of the Property as of the Effective Date, unless User exacerbates any such existing environmental condition (and the foregoing indemnity obligation of NEXTENERGY shall include reasonable attorneys' fees, reasonable investigation costs and all other reasonable costs and expenses incurred by User from the first notice that any claim or demand is to be made or may be made).

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