

Charge Up Commercial Pilot Participation Agreement

This Charge Up Commercial Pilot Participation Agreement ("Agreement") sets forth the terms and conditions for Participants to participate in the Charge Up Commercial Pilot. Pursuant to the terms of this Agreement, Hawaiian Electric¹ will install the Make-Ready Infrastructure required to support the installation of four to six Level 2 charging ports in an amount not to exceed \$90,000, at no cost to the Participant. The Participant may install additional ports at its own expense, including the cost differential for additional service capacity, equipment, and infrastructure.

The Participant hereby agrees to the following terms and conditions of the Charge Up Commercial Pilot.

I. QUANTITY OF CHARGING PORTS

The Participant is required to install the number of approved Charging Ports set forth in this Agreement.

Number of Charging Ports approved by Hawaiian Electric for installation:

II. APPROVED SITE LOCATION AND DESIGN

a. Site Address:

The Site is located at the following street address:

b. Conceptual Design of the Make-Ready Infrastructure to be installed on the Site:

Conceptual Design, as approved by the Participant and Hawaiian Electric, showing the location within the Site where Hawaiian Electric will install the Make-Ready Infrastructure.

¹ "Hawaiian Electric" means Hawaiian Electric Company, Inc., Maui Electric Company, Limited, or Hawaii Electric Light Company, Inc., as applicable, based on the service territory where the Make-Ready Infrastructure will be installed.

[INSERT CONCEPTUAL DESIGN HERE]

SAMPLE

III. DEFINITIONS

- a. **AHJ – Authority Having Jurisdiction:** The responsible government entities having geographically-based jurisdiction that typically approve, inspect, and/or permit construction projects (e.g., State, County, Fire, etc.).
- b. **Charge Up Commercial Handbook:** This handbook provides a description of the Pilot and additional Participant obligations that are binding on the Participant and is hereby incorporated by reference. The handbook can be found at: <https://www.hawaiianelectric.com/ChargeUpCommercial>
- c. **Charging Equipment:** Set of equipment used to charge an electric vehicle, including a qualifying charging station and necessary ancillary components such as charging cabinets, dispensers, and charging ports required to meet the technical specifications set forth in the Charging Equipment Registration form.
- d. **Charging Equipment Registration:** Provides the technical requirements for the charging equipment, including standards and minimum operational specifications, and is hereby incorporated by reference. This form also specifies the charging data required to be provided under this Agreement. The submission and approval of this form is required prior to interconnection with the Make-Ready Infrastructure. This form can be found at: <https://www.hawaiianelectric.com/ChargeUpCommercial>
- e. **Charging Port:** A physical connector that mates with the vehicle (e.g., a plug on the end of a cable) for charging purposes.
- f. **Commitment Period:** The 10-year period during which the Participant must maintain all charging equipment in working order at the site commencing on the In-Service Date of the charging equipment. The Commitment Period will consist of any time remaining in the Pilot and any post-Pilot period necessary to complete the 10-year period.
- g. **Conceptual Design:** Map and related documents, as applicable, depicting the basic, proposed layout of the Make-Ready Infrastructure and charging equipment on the site. The conceptual design will be further developed into a final design after funds are reserved.
- h. **Final Design:** Detailed, engineered drawings specifying the construction of the Make-Ready Infrastructure and interface with the charging equipment on the site. The final design will be completed after the Participation Agreement is executed and prior to start of construction.
- i. **Final Invoices:** Statements of the total amounts paid by the Participant for the purchase of charging equipment.
- j. **Five-Year Port-Level Data-Sharing Commitment Period:** The five-year period commencing on the In-Service Date of the charging equipment during which the Participant must provide monthly charging data.

- k. **Hawaii Public Utilities Commission:** The Hawaii state regulatory agency that is responsible for regulating public utility companies that provide electric, gas, telecommunications, water, sewage, and motor and water carrier transportation services in the State.
- l. **Grant of Easement:** A contractual agreement executed between Hawaiian Electric and the Property Owner to grant Hawaiian Electric utility and access rights to construct, maintain, operate, and repair any Make-Ready Infrastructure.
- m. **In-Service Date:** The date when the charging equipment is installed and commissioned with the network service provider for data-collection services or inspected and approved by the authority having jurisdiction, whichever is later in time.
- n. **Make-Ready Infrastructure:** All facilities to be located, designed, and installed by Hawaiian Electric up to an agreeable point(s) of interconnection with the Participant's charging equipment. The infrastructure may include, but is not limited to, new transformers, services and meters, new panels, stepdown transformers, conduits, wires, connectors, and any other hardware installed by Hawaiian Electric on site. This Pilot places a cap of \$90,000 on the Make-Ready Infrastructure installation costs to be incurred by Hawaiian Electric.
- o. **Network Service Provider:** The entity that will provide network services for charging equipment installed at the site. The network service provider collects the port level data and other information which comply with Hawaiian Electric's Pilot requirements.
- p. **Notice and Acceptance of Completed Make-Ready Infrastructure:** The form used by Hawaiian Electric to notify Participants that the construction of the Make-Ready Infrastructure is complete and provide electrical circuit numbers. The same form is subsequently used by Participants to convey their acceptance of the Make-Ready Infrastructure.
- q. **Participant:** The non-residential Hawaiian Electric customer that executes this Participation Agreement.
- r. **Pilot:** The Charge Up Commercial Pilot, also referred to as the Commercial Make-Ready Infrastructure Pilot Program, approved by the Hawaii Public Utilities Commission on January 24, 2022, in docket 2020-0202, which is designed to help Hawaiian Electric customers install the charging infrastructure needed to electrify vehicles.
- s. **Property Owner:** Individual or authorized representative of the entity holding title to the site where the charging equipment and Make-Ready Infrastructure will be located.
- t. **Site:** The premises owned, leased, or operated by the Participant where the Make-Ready Infrastructure and Charging Equipment will be installed.

IV. PROGRAM PARTICIPATION TERMS AND CONDITIONS

The Participant certifies that it meets, and will continue to meet throughout its participation in the Pilot, all eligibility and other requirements of the Pilot, including, but not limited to:

Electric Service

- a. Participant is a non-residential Hawaiian Electric customer.
- b. Participant is the customer of record associated with the meter where the Charging Equipment is located.
- c. Participant shall take electric service under a new separately metered account and under an eligible time-of-use ("TOU") rate for the full Commitment Period. Eligible rates include Schedule EV-J and EV-P.
- d. Participant shall agree to have a dedicated meter for the Charging Equipment to support the required data collection and TOU rate.

Access to Site

- e. Participant (or Property Owner in the case of a lease) shall grant to Hawaiian Electric all necessary access, rights of way, and easement rights related to the engineering assessments, installation, construction, testing, operation, maintenance, repair, replacement, and removal of the Make-Ready Infrastructure. For example, Participant shall ensure that the Property Owner executes and notarizes the Grant of Easement document provided to it by Hawaiian Electric within 30 calendar days of receipt. If the Participant is unable to do so within this timeframe, Participant may submit an extension request in writing prior to the expiration of the deadline. Such requests will be granted on a case-by-case basis and at Hawaiian Electric's sole discretion.
- f. In addition to any future grant under subsection (e), above, Property Owner hereby grants to Hawaiian Electric a construction right of entry authorizing Hawaiian Electric to enter the Site for the purposes of carrying out construction activities related to the installation of the Make-Ready Infrastructure, including all necessary surveying, acquisition of maps, construction activities, and operational activities.
- g. If Property Owner requires consideration to be paid to it in exchange for the Construction Right-of-Entry or Grant of Easement, Participant shall reimburse Hawaiian Electric for all costs incurred, including but not limited to easement value consideration, appraisal fees, surveyor costs, and administrative fees.

Make-Ready Infrastructure

- h. Participant acknowledges and agrees that the actual Make-Ready Infrastructure may vary from the Conceptual Design, if, in Hawaiian Electric's sole discretion, actual site conditions or AHJ direction requires such changes.

- i. Participant acknowledges that this Pilot places a cap of \$90,000 on the installation costs of the Make-Ready Infrastructure. Participant further acknowledges that the final installation costs will not, and cannot, be known until the Final Design is completed and approved by the participant, and a construction contractor bid to install the Make-Ready Infrastructure is subsequently accepted by Hawaiian Electric in its sole discretion, which will necessarily occur after execution of this Agreement.
- j. To the extent the Make-Ready Infrastructure installation costs exceed the \$90,000 cap, Participant may agree to pay such excess costs or may request: (1) a reduction in the number of Charging Ports; or (2) other changes to the Final Design, to reduce the projected installation costs. Such requests will be considered and approved or denied by Hawaiian Electric at its sole discretion.
- k. If Participant does not agree to pay such excess costs, if any, and does not receive approval of its requested design alteration so as not to exceed the \$90,000 cap on Make-Ready Infrastructure installation costs, Participant shall reimburse Hawaiian Electric all its incurred project costs. Upon payment for such costs, Hawaiian Electric shall provide Participant with the work product from such design consultants and contractors.
- l. After installation of the Make-Ready Infrastructure and prior to installation of the Participant's Charging Equipment, Participant shall execute the Notice and Acceptance of Completed Make-Ready Infrastructure within 14 days of receipt.
- m. Participant shall make no changes to the Make-Ready Infrastructure after its installation without the prior written consent of Company, which consent shall be given at Company's sole discretion. Changes to the Make-Ready Infrastructure without the Company's written consent shall act as a waiver of Company's obligation to maintain any portion of the Make-Ready Infrastructure as provided under Section VI(b) of this Agreement

Charging Equipment

- n. Participant shall purchase, install, test, operate, and maintain the qualifying network capable Charging Equipment in conformance with the requirements of the Charging Equipment Registration form and in compliance with all applicable laws and ordinances, without cost to Hawaiian Electric.
- o. Participant shall continue to provide all appropriate updates to the Charging Equipment Registration form during the entirety of the Commitment Period.
- p. Participant represents and warrants that it has, or will, contract with a licensed Charging Equipment installer that meets all requirements of the Pilot.
- q. Participant shall have the Charging Equipment installed, tested, commissioned, and permitted and thereafter shall notify Hawaiian Electric of the same within 45 days of receiving the Notice and Acceptance of Completed Make-Ready Infrastructure. If the Participant is unable to complete these tasks within this

timeframe, Participant may submit an extension request in writing prior to the expiration of the deadline. Such requests will be reviewed and granted by Hawaiian Electric on a case-by-case basis.

- r. Participant shall maintain the Charging Equipment in good working order and operate the Charging Equipment for no less than the Commitment Period.
- s. Participant agrees that if at any time during the Commitment Period the Charging Equipment is replaced, all associated costs will be the responsibility of the Participant.
- t. Participant agrees that the Charging Equipment, including the number of Charging Ports, the models, and their charging level, cannot be modified after execution of this Agreement without the express written consent of Hawaiian Electric, which shall be given at Hawaiian Electric's sole discretion.

Network Services

- u. Participant shall contract with a Network Service Provider to record and provide EV charging usage data, including, but not limited to, the time of day and duration of each charge, rate, cost, and load for a period of time not less than the **Five-Year Port-Level Data-Sharing Commitment Period**. The Participant shall then provide such data to Hawaiian Electric on a monthly basis in conformance with the data requirements provided in the Charging Equipment Registration form.
- v. For every month Participant fails to provide or comply with the data requirements provided in the Charging Equipment Registration form, Hawaiian Electric may, at its sole discretion, either: (i) toll the **Port-Level Data-Sharing Commitment Period** on a month-for-month basis; or (ii) assess to the Participant liquidated damages in an amount equal to \$700. Participant and Hawaiian Electric agree that (1) the failure to provide the EV charging usage data would result in damages to Hawaiian Electric in the form of loss of benefit for Hawaiian Electric that would be difficult or impossible to calculate with certainty and (2) \$700 per month is an appropriate approximation of such damages. Hawaiian Electric's right to toll the **Port-Level Data-Sharing Commitment Period** or collect liquidated damages as described in this paragraph (u) shall constitute Hawaiian Electric's exclusive remedy and fulfillment of all Participant's liability with respect to its obligations to provide such EV charging usage data. The liquidated damages shall be provided to Hawaiian Electric in the form of a lump sum payment by Participant.
- w. Participant shall make commercially reasonable efforts to ensure that no malicious software ("Malware") or unauthorized code is introduced into any aspect of such network services or the interface with Hawaiian Electric's systems, including the information, data, and other materials delivered by or on behalf of Participant to Hawaiian Electric (collectively, the "Environment").
- x. If Malware or unauthorized code is found to have been introduced into the Environment, Participant shall promptly notify Hawaiian Electric. Participant shall

take immediate action to eliminate and remediate the effects of the Malware, at Participant's expense. Participant shall not modify or otherwise take corrective action with respect to the Hawaiian Electric systems except at Company's request. Participant shall promptly report to Company the nature and status of all efforts to isolate and eliminate Malware or unauthorized code.

Miscellaneous

- y.** Participant shall provide Hawaiian Electric with its Final Invoices.
- z.** Participant acknowledges that funding pursuant to this Agreement is only reserved after Hawaiian Electric receives a copy of this Agreement signed by Participant and Property Owner (if different from Participant) and Hawaiian Electric executes the Agreement. The Participant also acknowledges that reserved funding may be withdrawn, and Hawaiian Electric may terminate this Agreement, both in Hawaiian Electric's sole discretion, if Participant breaches the Agreement, including, but not limited to, failing to timely install the Charging Equipment.
 - aa.** In addition to this Agreement, Participant shall comply with all Pilot requirements and timelines provided in the Charge Up Commercial Handbook, and Charging Equipment Registration, which can be found at the websites provided in Section III (Definitions) of this Agreement. If there is a conflict between provisions of any of these documents, the following hierarchy of control shall apply: this Agreement; Charge Up Commercial Handbook; and Charging Equipment Registration.
 - bb.** Participant agrees to participate in the Pilot for the full Commitment Period, including completing Pilot-related surveys and interviews during that time.

V. SITE ELIGIBILITY

- a.** The Site must be owned or leased by the Participant. If the Site is leased, the lease must have at least 10 years remaining on the lease from the In-Service Date and the Property Owner must: (i) provide consent to install the Make-Ready Infrastructure and qualified Charging Equipment; and (ii) execute a Grant of Easement in favor of Hawaiian Electric. Proof of ownership or lease of the Site must be provided to Hawaiian Electric prior to execution of this Agreement.
- b.** The Site must serve as the primary charging location for all participating charging equipment.
- c.** At least four qualifying Charging Ports must be installed at the Site within 45 calendar days of Hawaiian Electric's notice of Make-Ready Infrastructure completion; provided that this deadline may be extended for good cause shown at the Company's discretion.
- d.** The Site must include an appropriate and sufficient location within the Site to cost-effectively install Make-Ready Infrastructure and Charging Equipment based upon certain parameters, including proximity to transformers, length of required trenching, available transmission and distribution capacity, and facilities, as

determined by Hawaiian Electric in its sole discretion. The Site must not have environmental, land use, or other permitting issues, such as existing contamination, flooding, or zoning concerns. If such issues exist, they must be identified and addressed to Hawaiian Electric's satisfaction. Written documentation confirming the resolution of such issues may be required.

- e. A Participant who elects to install an energy system (e.g., photovoltaic, battery storage) to provide energy to the Make-Ready Infrastructure, in whole or in part, shall provide generation data during the duration of the Five-Year Port-Level Data-Sharing Commitment Period.

VI. HAWAIIAN ELECTRIC REQUIREMENTS

- a. Upon execution of this Agreement by all necessary parties, Hawaiian Electric shall reserve up to \$90,000 in Pilot funds in favor of the Participant.
- b. Upon receipt of all required pre-construction documentation, including the Final Design, and all necessary access, rights of way, and easement rights, Hawaiian Electric, at its sole discretion and in accordance with applicable tariffs, design standards, and AHJ permitting requirements, shall locate, design, construct, and maintain the Make-Ready Infrastructure for the Term of this Agreement at no cost to the Participant.

VII. TERM AND TERMINATION

- a. Term: This Agreement shall begin upon the date that both Parties have signed the Agreement and terminate ten (10) years from the In-Service Date of the Charging Equipment ("Term"); provided, however, that both Parties may mutually agree to extend the Term at any time prior to its termination.
- b. Disposition of Make-Ready Infrastructure: Upon termination of this Agreement, except for any reason pursuant to subsections (c) and (d) of this Section VII, the Make-Ready Infrastructure installed by Hawaiian Electric that is typically customer-owned shall be transferred to the Property Owner at no cost to the Property Owner. Such Make-Ready Infrastructure may include conduit, conductors, concrete equipment pad(s), meter socket(s), and electrical panel(s).
- c. Termination: If the Participant fails to comply with any of the terms and conditions of this Agreement, Hawaiian Electric, in its sole discretion, may terminate this Agreement after sending the Participant a notice of default that remains uncured for ten (10) business days from receipt. Upon such a termination, Hawaiian Electric may immediately discontinue service to this new separately metered account established pursuant to this Agreement. In the case of a safety or security violation, Hawaiian Electric may terminate this Agreement immediately and take all other necessary actions, including but not limited to disconnecting power to the Charging Equipment, that, in Hawaiian Electric's sole discretion, is appropriate to cure such safety or security violation.

- d.** Termination Costs: If this Agreement is terminated prior to the end of the Term because: (1) the Participant terminates its participation in the Pilot; (2) the Participant fails to timely install the Charging Equipment or, prior to the end of the Commitment Period, removes without replacing the Charging Equipment or Make-Ready Infrastructure; or (3) Hawaiian Electric terminates this Agreement due to the Participant's failure to comply with the terms and conditions of this Agreement, in accordance with subsection (c) of this Section VII, the Participant shall pay all costs actually incurred and all costs committed to be incurred by Hawaiian Electric, as of the termination date, in connection with designing and deploying the Make-Ready Infrastructure at the Site. If the Charging Equipment and the Make-Ready Infrastructure are installed, the amount due to Hawaiian Electric shall be prorated over the Commitment Period. Hawaiian Electric will invoice the Participant for such costs, and Participant shall pay such invoice within 60 days of receipt. Upon payment in full of such termination costs, Hawaiian Electric shall transfer ownership of the Make-Ready Infrastructure that is typically customer-owned to the Property Owner.
- e.** As-Is, Where-Is: Except with respect to the representations, warranties, and covenants expressly provided by Hawaiian Electric to Participant in this Agreement and in the ancillary agreements, Participant acknowledges and agrees that any transfer of the Make-Ready Infrastructure under subsection (b) or (d) of this Section VII by Hawaiian Electric to Participant shall be done, and shall be accepted by Participant on an "As-Is" and "Where-Is" basis in its condition and state of repair at the applicable time of transfer, with all faults, limitations, and defects (hidden and apparent) and, except as expressly provided herein or in the ancillary agreements, without any guarantees or warranties (express or implied), as to its title, quality, merchantability, or fitness for Participant's intended use or purpose or a particular use or purpose or any use or purpose whatsoever. All representations and warranties other than those expressly set forth herein or in the ancillary agreements are excluded.
- f.** Termination of Grant of Easement: Upon transfer of the Make-Ready Infrastructure under subsection (b) or (d) of this Section VII, Participant shall ensure that the Grant of Easement between Hawaiian Electric and Property Owner required under Section IV, above, is amended to remove any access rights to any such transferred Make-Ready Infrastructure.

VIII. INDEMNIFICATION AND LIABILITY; NO REPRESENTATIONS OR WARRANTIES

- a.** Participant understands that Hawaiian Electric makes no representations regarding manufacturers, dealers, contractors, materials, or workmanship of the Charging Equipment. Further, Hawaiian Electric makes no warranty, whether express or implied, including, without limitation, the implied warranties of merchantability and fitness for any particular purpose, use, or application of the products and

services under the Pilot. The Participant agrees that Hawaiian Electric has no liability whatsoever concerning (1) the quality, safety, or installation of such products, including their fitness for any purpose, (2) the workmanship of any third parties, and (3) the installation or use of the products.

- b.** The Participant hereby waives any and all claims against Hawaiian Electric and its officers, directors, and employees or agents (and each of their heirs, successors, and assigns), arising out of activities conducted by or on behalf of Hawaiian Electric under the Pilot. Without limiting the generality of the foregoing, none of such parties shall be liable hereunder for any type of damages, whether direct or indirect, incidental, consequential, exemplary, reliance, punitive, or special damages, including damages for loss of use, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort, including negligence of any kind.
- c.** Indemnification of Hawaiian Electric: To the fullest extent permitted by law, the Participant shall indemnify, defend, and hold harmless Hawaiian Electric and its officers, directors, and employees or agents (and each of their heirs, successors, and assigns) (collectively, the "Indemnified Parties"), from and against any and all claims, actions, suits, proceedings, losses, liabilities, penalties, fines, damages, costs, or expenses, including without limitation reasonable attorneys' fees, resulting from (a) any breach of the representations, warranties, covenants, or obligations of Participant under this Agreement, (b) any act or omission of Participant, whether based upon Participant's negligence, strict liability, or otherwise, in connection with the performance of this Agreement, or (c) any third-party claims of any kind, whether based upon negligence, strict liability, or otherwise, arising out of or connected in any way to Participant's performance or nonperformance under this Agreement. This indemnification obligation shall not apply to the extent that such injury, loss, or damage is caused by the sole negligence or willful misconduct of Hawaiian Electric.

Participant shall also indemnify and hold Hawaiian Electric harmless from and against all claims and demands for loss or damage, including property damage, personal injury, and wrongful death, arising out of or in connection with the use or occupancy of the Site by Hawaiian Electric or anyone claiming under Hawaiian Electric.

- d.** Defense of Claim: If any Claim is brought against the Indemnified Parties, the Participant shall assume the defense of such Claim, with counsel reasonably acceptable to the Indemnified Parties, unless in the opinion of counsel for the Indemnified Parties a conflict of interest between the Indemnified Parties and the Participant may exist with respect to such Claim. If a conflict precludes the Participant from assuming the defense, then the Participant shall reimburse the Indemnified Parties on a monthly basis for the Indemnified Parties' defense costs

through separate counsel of the Indemnified Parties' choice. If the Participant assumes the defense of the Indemnified Parties with acceptable counsel, the Indemnified Parties, at their sole option and expense, may participate in the defense with counsel of their own choice without relieving the Participant of any of its obligations hereunder.

IX. OWNERSHIP & CONFIDENTIALITY OF MATERIALS & INFORMATION

- a.** Ownership of Project Materials: Any and all drawings, specifications, technical information, reports, studies, documents, deliverables, materials, or business information of any type whatsoever provided to the Participant by Hawaiian Electric ("Project Materials") are Hawaiian Electric's exclusive property. Any restrictions or claims of ownership or rights that the Participant adds to or includes within the Project Materials that are inconsistent with this Section are null and void.
- b.** Scope of Confidential Information: Each Party may have a proprietary interest or other need for confidentiality in information that may be furnished to the other during the term of this Agreement. As used herein, "Confidential Information" shall include all non-public information disclosed by either Party ("Disclosing Party") to the other Party ("Receiving Party"), whether disclosed orally or in writing, electronically or by other medium, and whether or not marked or otherwise identified as confidential. Confidential Information shall not include information if and to the extent the Receiving Party establishes that the information: (i) is part of the public domain through no act or omission of the Receiving Party; or (ii) came into the Receiving Party's lawful possession outside of the performance of this Agreement and through means other than the Disclosing Party.
- c.** General Duty to Protect: The Receiving Party agrees that it will exercise at least the same standard of care in protecting the confidentiality of the Disclosing Party's Confidential Information as it does with its own confidential information of a similar nature, but in any event, no less than reasonable care. The Receiving Party will hold in confidence and will not use, reproduce, distribute, transmit or disclose, directly or indirectly, the Disclosing Party's Confidential Information except as permitted herein or as consented to in writing by the Disclosing Party.
- d.** Permitted Disclosures: The Receiving Party may disclose Confidential Information to its officers, directors, employees, professional advisors, and independent contractors with a direct need to know the information for the exercise of rights and/or performance of obligations under this Agreement; provided, however, such persons or entities must be bound by written confidentiality agreements with

terms and conditions that are no less restrictive than those contained herein. Confidential Information may also be disclosed by the Receiving Party pursuant to a requirement of a governmental agency, regulatory body or by operation of law; provided, however, the Receiving Party shall disclose only that portion of the Confidential Information that it is required to disclose and shall (if permitted) notify the Disclosing Party prior to such disclosure in order to permit the Disclosing Party to lawfully attempt to prevent or restrict such disclosure should it so choose. Finally, Company may disclose Confidential Information, as necessary and appropriate, to the State of Hawai'i Public Utilities Commission and/or State of Hawai'i Consumer Advocate (including their respective staffs) provided that such disclosure is made under a protective order entered in the docket or proceeding with respect to which the disclosure will be made or any general protective order otherwise applicable to the disclosure.

X. MISCELLANEOUS

- a.** All Applicable Tariffs Apply: All applicable Hawaiian Electric tariffs apply to service provided pursuant to this Agreement, except for Rule 14 which would otherwise make the Participant responsible for certain Make-Ready Infrastructure.
- b.** Survival: The Participant's obligation to pay Termination Costs and to indemnify the Indemnified Parties shall survive the expiration or termination of this Agreement.
- c.** Assignment: The Participant shall not assign this Agreement without the prior written consent of Hawaiian Electric; to be granted or denied in Hawaiian Electric's sole discretion. Any assignment and assumption shall be in a form acceptable to Hawaiian Electric, in Hawaiian Electric's sole discretion.
- d.** Notices: All notices, consents, and waivers under this Agreement shall be in writing and will be deemed to have been duly given when (i) delivered by hand, (ii) sent by electronic mail ("E-mail") (provided receipt thereof is confirmed via E-mail or in writing by recipient), (iii) sent by certified mail, return receipt requested, or (iv) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses and E-mail addresses set forth below (or to such other addresses and E-mail addresses as a party may designate by notice to the other party):

Hawaiian Electric:

By Mail:

Hawaiian Electric Company, Inc.
P.O. Box 2740
Honolulu, Hawaii 96840
Attn: Electrification of Transportation, AL14-LC

By Hand or Overnight Delivery:

Hawaiian Electric Company, Inc.
1099 Alakea Street, 14th floor
Honolulu, Hawaii 96813
Attn: Electrification of Transportation

By E-mail:

Hawaiian Electric Company, Inc.
Electrification of Transportation
Email: chargeup@hawaiianelectric.com
Include application number in the subject line of the email

With a Copy to:

By Mail:

Hawaiian Electric Company, Inc.
P.O. Box 2750
Honolulu, HI 96840
Attention: Legal Department

By Hand or Overnight Delivery:

Hawaiian Electric Company, Inc.
1099 Alakea Street, 20th Floor
Honolulu, HI 96813
Attention: Legal Department

By E-mail:

Hawaiian Electric Company, Inc.
Legal Department
Email: legalnotices@hawaiianelectric.com

Participant:

By Mail:

By Hand or Overnight Delivery:

By E-mail:

- e. Valid and Binding:** The Participant represents and warrants that the execution and delivery of this Agreement, and the performance by the Participant of its obligations under this Agreement, have been duly and validly authorized, and this Agreement is a legal, valid, and binding obligation of the Participant.
- f. Counterparts:** This Agreement and any document incorporated by reference herein may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument binding on all parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterparts. For all purposes, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded, and the remaining pages assembled as one document. The parties agree that this Agreement and any document incorporated by reference herein may be executed and delivered by exchange of executed copies via E-mail or other acceptable electronic means, and in electronic formats such as Adobe PDF or other formats mutually agreeable to the parties which preserve the final terms of this Agreement. A party's signature transmitted by E-mail or other acceptable electronic means shall be considered an "original" signature which is binding and effective for all purposes of this Agreement or any document incorporated by reference herein.

XI. AGREEMENT BY PARTICIPANT

By signing in the space below, you represent that the information provided in this Agreement is true, accurate, and complete, and that you will comply with the terms and conditions set forth in this Agreement and all other documents incorporated by reference herein. You also represent and warrant that you are a duly authorized representative of the Participant with the requisite authority to enter into this Agreement.

IN WITNESS WHEREOF, Hawaiian Electric, Participant, and Property Owner (if applicable) have executed this Agreement as of the day and year written below.

Participant

By _____

Name:

Its:

SAMPLE

XII. AGREEMENT BY PROPERTY OWNER

(If the Participant is the Property Owner, no separate signature is required.)

By signing in the space below, you represent and warrant that you are a duly authorized representative of the owner of the property on which the Site is located and that you have the requisite authority to consent to the use of the property in the manner set forth in this Agreement. You also hereby approve the installation and operation of the Make-Ready Infrastructure and the Charging Equipment, as well as any other necessary equipment to deploy the Charging Equipment pursuant to the Charge Up Commercial Pilot Program as described in this Agreement. You further agree to receive the Make-Ready Infrastructure upon termination of this Agreement pursuant to Section VII, above, regardless of its state of construction or completeness. You also agree that this Agreement constitutes your grant of a construction right of entry to Hawaiian Electric as provided in Section IV, above. You further agree to execute, notarize, and return the Grant of Easement pursuant to the requirements of Section IV, above.

IN WITNESS WHEREOF, Hawaiian Electric, Participant, and Property Owner (if applicable) have executed this Agreement as of the day and year written below.

Property Owner

By _____

Name:

Its:

XIII. APPROVAL BY HAWAIIAN ELECTRIC AND RESERVATION OF FUNDS

IN WITNESS WHEREOF, Hawaiian Electric, Participant, and Property Owner (if applicable) have executed this Agreement as of the day and year written below.

Hawaiian Electric

By _____

Name:

Its:

SAMPLE