

## National Grid Electric Vehicle Infrastructure Make-Ready Program Participant Terms and Conditions

The Participant agrees to participate in the National Grid Electric Vehicle Infrastructure Make-Ready Program (“Make-Ready Program”) offered by Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”) pursuant to these terms and conditions (“Terms and Conditions”), set forth herein.

### 1. Definitions.

- 1.1 “Affiliate” means any Person controlling, controlled by, or under common control with, any other Person; “control” shall mean the ownership of, with right to vote, 50% or more of the outstanding voting securities, equity, membership interests, or equivalent, of such Person.
- 1.2 “Agreement” means the Application, these Terms and Conditions and any exhibits and attachments which are incorporated and made a part of this Agreement.
- 1.3 “Application” means the National Grid Electric Vehicle Infrastructure Make-Ready Program Application, including any attachments, exhibits, and these Terms and Conditions.
- 1.4 “Approved Contractor” means a contractor who has met the utility’s approval criteria to install EV charging infrastructure incentivized through the Make-Ready Program.
- 1.5 “Make-Ready Electric Upgrades” means (i) National Grid Electric Distribution System Upgrades and (ii) Participant’s Electric Distribution System Upgrades
- 1.6 “National Grid Electric Distribution System Upgrades” means electrical infrastructure that is required to install new EVSE, owned and operated by National Grid, including, but not limited to, transformers, and new or upgraded electric services.
- 1.7 “Participant’s Electric Distribution System Upgrades” means electric infrastructure that is required to install new EVSE, owned and operated by an entity other than National Grid, including, but not limited to, installation of wire and conduit, transformers, or mounting hardware from the Participant’s electrical panel to the EVSE stub
- 1.8 “Make-Ready Program Incentive” means National Grid’s financial contributions toward the Make-Ready Electric Upgrades as defined above.
- 1.9 “EVSE” means the Electric Vehicle Supply Equipment.
- 1.10 “Equipment” means the EVSE and Participant’s Electric Distribution System Upgrades.
- 1.11 “Equipment Activation Date” means the date upon which the Participant activates the Equipment installed on the Site as indicated in the section of the Application entitled “Term”.
- 1.12 “EVSE Supplier” means vendors with EVSE on the National Grid EVSE Qualified Equipment List.
- 1.13 “EVSE Utilization Data” means charging station utilization information defined by the Program Order provided by the Participant to National Grid or its contractor, which includes, but is not limited to,
- a. 15-minute interval data
  - b. load profiles for the stations for the top ten system demand days of each year,
  - c. the number of sessions daily,
  - d. start and stop times of each charge,
  - e. the amount of time each vehicle is plugged in per session,
  - f. peak kW per charging session,
  - g. kWh per charging session, and
  - h. plug outage information. Plug outage information is to include the number and duration of outages and is to be differentiated by expected outages (for maintenance) and unexpected outages.
- 1.14 “EVSE Financial Data” means charging station financial data provided by the Participant to National Grid or its contractor which includes, but is not limited to;
- a. fee structure (structure of fee to the end-use customer, i.e. cost per minute, cost per kWh, cost per session and whether the station owner is providing charging for free);
  - b. charging revenues derived, and
  - c. operating costs, which should include energy-related costs and non-energy-related costs separately identified.
- 1.15 “Initial Term” has the meaning set forth in Section 2 below.
- 1.16 “National Grid” means Niagara Mohawk Power Corporation d/b/a National Grid.
- 1.17 “Person” means any natural person, individual, firm, corporation, company, partnership (general or limited), limited liability company, business trust, joint venture, consortium, government or political subdivision, or any agency, instrumentality, or authority of any government or political subdivision, or other entity or association.
- 1.18 “Program or Make-Ready Program” means the National Grid Electric Vehicle Infrastructure Make-Ready Program.
- 1.19 “Program Materials” means the documents and information provided by National Grid, and other Program requirements, which may include, without limitation, Program guidelines and requirements, application forms, terms and conditions, and other correspondence or literature regarding the Program.
- 1.20 “Program Order” means Order Establishing Electric Vehicle Infrastructure Make-Ready Program and Other Programs issued in Case 18-E-0138 by the New York Public Service Commission on July 16, 2020
- 1.21 “Participant” means the nonresidential electric customer of National Grid who satisfies the Participant eligibility requirements below.
- 1.22 “Site” means the property owned or occupied by the Participant where the Equipment will be installed.

1.23 “Term” means the Term as set forth in Section 2 below.

**2. Term.**

The term of this Agreement will commence on the date that this agreement is signed below, and conclude five (5) years from the Equipment Activation Date or December 31, 2025, whichever is later.

**3. Participant Eligibility Requirements and Representations and Warranties.**

3.1 The Participant is a (i) non-residential electric customer of National Grid, and (ii) the owner of the Site or has the right and/or express written authority to install the Equipment on the Site. Participant shall obtain any required approvals from property owners, landlords and/or corporate offices.

3.2 The Participant agrees to install EVSE consistent with the Program Order, perform the required Participant Make-Ready Upgrades and establish any necessary electric service orders with National Grid.

3.3 Participant agrees to install Equipment in compliance with all federal, state and local laws and/or codes, and to follow all applicable electric codes and standards.

3.4 The Participant represents and warrants that the information it submitted on its Application for Program participation is true, complete and accurate.

**4. Participant Obligations.**

The Participant shall:

4.1 Install Equipment using only members of the Approved Contractor list.

4.2 Complete construction of EVSE and Participant’s Electric Distribution System Upgrades within one year of approved application.

4.3 Provide estimates of the cost of Participant’s Electric Distribution Upgrades to National Grid so that National Grid may calculate the Make-Ready Program Incentive for which the Participant is eligible.

4.4 Obtain all necessary approvals, permits and licenses for the installation and operation of Equipment.

4.5 Notify National Grid of any vandalism, malfunction or suspected malfunction of the Equipment.

4.6 Rectify issues identified during a post inspection review conducted by National Grid or its contractor pursuant to Section 10.2 below.

4.7 Be accessible to National Grid and, as requested from time to time by National Grid, to answer National Grid’s or its contractor’s questions regarding the performance of the EVSE.

4.8 Not cause or permit the Equipment to become subject to any mortgage, lien, security interest or other encumbrance.

4.9 Perform Participant’s Electric Distribution System Upgrades required to support the activation and operation of the EVSE on the Site.

4.10 Maintain all Equipment in a safe manner pursuant to Section 7 below.

4.11 Ensure EVSE on the Site is visible and accessible for use pursuant to Section 9 below.

4.12 Provide the required documentation and invoices to National Grid pursuant to Section 8 below.

4.13 Pay the electricity costs for EVSE on Site.

**5. National Grid Obligations.**

National Grid or its contractor will:

5.1 Install and maintain any necessary National Grid Electric Distribution Upgrades at the Site.

5.2 Pay the applicable portion of the Make-Ready Program Incentive associated with Participant’s Electric Distribution System Upgrades to the Participant following receipt of invoices and required documentation from the Participant.

**6. EVSE Utilization and Reporting.**

Participant shall authorize the EVSE Supplier to provide National Grid and any authorized third-party vendor acting on behalf of National Grid the EVSE Utilization Data and EVSE Financial Data on a quarterly basis dictated by the Program Order for the Term of this Agreement.

**7. EVSE, Installation and Maintenance.**

The Participant shall purchase the EVSE and shall install the EVSE on the Site. Except as otherwise provided hereunder, neither National Grid nor its contractors or agents shall be responsible for performing any work in connection with the installation of EVSE. The Participant understands and agrees that after the EVSE is installed, the Participant shall operate and maintain the EVSE in a safe manner and in accordance with the manufacturer’s recommendations and these Terms and Conditions herein. The Participant shall, at the Participant’s sole expense, be responsible for any necessary repair and replacement of the EVSE and/or replacement any necessary parts of the EVSE.

**8. Incentive Processing.**

National Grid must preapprove the cost of the Participant’s Electric Distribution Upgrades prior the Participant or its contractor commencing any work on such upgrades. The Participant shall provide National Grid with reasonable, estimated, and properly documented costs for the Participant’s Make-Ready Electric Upgrades and installed EVSE. National Grid will assess the costs associated with the Participant’s Make-Ready Electric Distribution Upgrades and the National Grid Electric Distribution Upgrades to determine the Make-Ready Program Incentive for which the Participant is eligible. Within ninety (90) days following receipt of invoices and all required documentation, National Grid will pay the applicable portion of the Make-Ready Program Incentive to the Participant.

**9. Access.**

Participant shall allow National Grid or its contractor access to the Site to: (i) perform verification of the installation and activation of EVSE during the Term; and (ii) to prepare the Site for work required in connection with the Program including, without limitation, for certain assessments required for an Application, the installation of Electric Distribution Upgrades, inspection (post and periodic) of the EVSE, emergency or maintenance issues relating to the National Grid Electric Distribution Upgrades. The Participant shall cooperate in good faith with National Grid to obtain easement(s), as necessary, including promptly signing any required applications. National Grid may record a "Standard Form Notice of Contract" in lieu of an easement to evidence its right to access the Site.

**10. Monitoring and Inspection.**

10.1 National Grid or its contractor may access the Site to perform an initial site assessment, as well as verification of installed Equipment.

10.2 The Participant shall address and resolve any and all issues discovered by Participant or identified during an inspection by National Grid and communicated to the Participant by National Grid. Participant shall resolve issues in order to be eligible for any of the Make-Ready Program Incentive from National Grid.

10.3 National Grid may monitor the use of the EVSE and periodically inspect the same in order to verify Participant's compliance with the Agreement and Program requirements and to obtain certain information, including, without limitation, usage information, and Participant's participation in its obligations and duties under this Agreement.

10.4 Participant shall cooperate in good faith with National Grid and/or its contractor and provide any requested information in connection with National Grid's monitoring and inspections of the EVSE or the Electric Distribution Upgrades. Participant understands and agrees that neither National Grid nor its contractor shall perform any kind of safety, code or other compliance review of the EVSE or the Site.

**11. Program Participation and Modification.**

Once the Participant submits to National Grid the Application and required documentation, National Grid shall inform the Participant in writing regarding the Participant's eligibility and participation in the Program. National Grid retains the right, in its sole discretion, to modify the Program.

**12. Termination.**

12.1 National Grid may, in its sole discretion, at any time and without notice, terminate for convenience or cause Participant this Agreement.

12.2 The Participant may terminate this Agreement before the expiration of the Initial Term.

12.3 If National Grid terminates this Agreement for cause or the Participant terminates the Agreement before the end of the Initial Term, the Participant shall be solely responsible for reimbursing National Grid for the straight-line depreciated (over 5 years) installation costs for the Make-Ready Upgrades.

**13. Name and Logo Use.**

The Participant shall not use National Grid's name or logo without express written authorization from National Grid. Any authorized use of National Grid's name and logo must be reviewed and approved by National Grid and such use must strictly adhere to such National Grid's specific name and logo use/branding requirements.

**14. Confidentiality.**

The Participant grants to National Grid the right to use and reference for promotional and regulatory purposes the Participant's participation in the Program. National Grid shall keep in strict confidence any Participant confidential information and any confidential EVSE Utilization Data. National Grid shall exercise reasonable care to maintain the confidentiality, and shall not disclose confidential information to any third parties, except to the extent expressly permitted by these Terms and Conditions.

**15. Liability.**

The Participant shall be liable for any claims, liability, losses, damages and costs to the extent arising from any act of omission on the part of the Participant or its contractors, employees or any person for whom the Participant is legally responsible who causes injury to persons (including death) or damage to property except to the extent liability results from the negligence of National Grid. This Section shall survive the termination or expiration of the Agreement. With the exception of the Participant's indemnity obligations hereunder, neither the Participant nor National Grid shall be liable under this Agreement for any special, indirect, incidental, penal, punitive or consequential damages of any nature. With the exception of third-party claims for personal injury or property damage, National Grid's liability to the Participant under this Agreement, regardless of the number of claims, shall not exceed to the total amount of the Make-Ready Program Incentive associated with the Participant's Electric Distribution System Upgrades paid by National Grid to the Participant under this Agreement. The provisions of this Section shall survive the termination or expiration of the Agreement.

**16. Indemnification.**

The Participant shall indemnify, defend and hold harmless National Grid, its affiliates and their respective contractors, officers, directors, employees, agents, representatives from and against any and all claims, damages, losses and expenses (including reasonable attorneys' fees and costs incurred to enforce this indemnity) brought by or for third parties (collectively, "Loss") to the extent arising out of or resulting from the Participant's participation in Program or the Participant's acts or omission under this Agreement, except to the extent that such Loss results from the negligence of National Grid. This Section shall survive the termination or expiration of the Agreement.

17. **Disclaimer of Warranties.**

Except as expressly stated herein, National Grid makes no representations, warranties or guarantees in connection with the Agreement. National Grid does not make any representations of any kind regarding the benefits, adequacy or safety of the EVSE. The Participant understands and agrees that National Grid is not a manufacturer of, or regularly engaged in the sale or distribution of, or an expert with regard to the EVSE or any related work. The Participant further understands and agrees that neither National Grid nor its contractor shall perform any kind of safety, code or other compliance review of the EVSE or Site. This Section shall survive the termination or expiration of the Agreement.

18. **Removal of Equipment.**

The Participant understands and agrees that as a condition of participation in the Program to properly remove and dispose of or recycle the EVSE in accordance with all applicable laws and regulations. The Participant further understands and agrees to pay the cost to remove the Participant's Make-Ready Electric Upgrades should the Participant desire removal of such upgrades.

19. **Compliance with Laws.**

The Participant shall, and shall require its subcontractors, agents and employees to, comply with all applicable Federal, state and local directives, requirements, rules, regulations, laws and ordinances, whether the same are in force upon the execution of the Agreement or may in the future be passed, enacted or directed, including without limitation, compliance with the safety rules and regulations and standards adopted under the Occupational Safety and Health Act of 1970 (OSHA), as amended from time to time.

20. **Notice.**

All notices, requests, approvals and other communications which may or are required to be given by either party to the other under this Agreement shall be deemed to have been sufficiently given for all purposes hereunder when delivered personally or mailed by registered or certified mail (i) if to National Grid at 300 Erie Boulevard West, Syracuse, NY 13202, Attention: Program Manager Electric Vehicles; and (ii) if to the Participant, at the address of the Site as set forth in the Application

21. **Governing Law.**

The Agreement shall be interpreted and enforced according to the laws of the State of New York without regard to its conflicts of law principles. Any controversies arising out of the Agreement shall be submitted only to the courts of State of New York. The Participant hereby submits to the courts of State of New York for the purposes of interpretation and enforcement of this Application and its Terms and Conditions.

22. **Assignment.**

This Agreement may not be assigned by the Participant without the express written consent of National grid.

23. **Amendment.**

There shall be no amendment to this Agreement or any Program guidelines unless such is made by National Grid and mutually agreed upon by Participant and National Grid.

24. **No Third-Party Beneficiaries.**

This Agreement does not grant any rights to any third parties.

25. **Entire Agreement.**

This Agreement constitutes the entire agreement between National Grid and the Participant with respect to the subject matter hereof, and any and all previous representations or agreements with respect to such subject matter, either oral or written, are hereby annulled and superseded. In the event of any conflict or inconsistency between the Agreement and any other Program Materials, the Agreement shall be controlling.

Participant has read, understands and agrees to these Terms and Conditions

**Participant**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_