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April 3, 2023

Via Electronic Filing

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Keystone Bldg. 2nd Floor W
400 N. Street
Harrisburg, PA 17120

**Re: Municipal Contract between Duquesne Light Company and the Borough of Wilkesburg, Allegheny County
Docket No. U-2023-_____**

Dear Secretary Chiavetta:

Enclosed for review and approval in accordance with Section 507 of the Public Utility Code, 66 Pa.C.S. § 507 and 52 Pa. Code § 3.101, is a Customer Agreement dated March 2, 2023 between Duquesne Light Company (“Duquesne Light” or the “Company”) and the Borough of Wilkesburg, Allegheny County (“The Borough”). This Agreement provides for the Borough’s participation in Duquesne Light’s Make-Ready Pilot program for electric vehicle charging infrastructure (“Make-Ready Pilot”), which was approved as part of the Company’s most recent base rate case. See Docket Number R-2021-3024750, Joint Petition for Settlement (“Settlement”) paragraph 57(a). The Settlement was approved by the Pennsylvania Public Utility Commission (“Commission”) without modification on December 16, 2021.

Please contact me with any questions, comments, or concerns.

Respectfully,

A handwritten signature in blue ink, appearing to read "Emily M. Farah", is placed over a light blue rectangular background.

Emily M. Farah
Duquesne Light Company
Counsel, Regulatory

Enclosures

cc: John Antinori, Wilkesburg Borough Manager (jantinori@wilkesburgpa.gov) (w/ encl.)



DUQUESNE LIGHT COMPANY COMMUNITY AND FLEET CHARGING PROGRAM Customer Agreement

This Charging Program Agreement (the "Agreement"), is made on the date last executed ("Effective Date") by and between Duquesne Light Company ("DLC"), a Pennsylvania limited liability company, having its principal office at 411 Seventh Avenue, Pittsburgh, Pennsylvania 15219, and Borough of Wilkesburg ("Customer") having an address of 605 Ross Avenue, Wilkesburg, PA 15221. Customer and DLC may be referred to herein individually as a "Party" or collectively as the "Parties."

The Parties hereto, each in consideration of the promises of the other in this Agreement, agree as follows:

DUQUESNE LIGHT COMPANY COMMUNITY AND FLEET CHARGING PROGRAM Terms and Conditions

1. **Description of Program.** Duquesne Light Company (DLC) is helping pave the way for electric vehicles (EVs) in the Pittsburgh region. EV registrations in DLC's service territory are expected to grow exponentially in the next 20 years. DLC is working now to modernize DLC's electric grid to meet the expected growth and DLC Customers' charging needs. The DLC Community and Fleet Charging Program (the "Program") will increase EV charging accessibility in the Pittsburgh region by providing DLC customers with Make-Ready Electric Infrastructure to support the installation of EV charging stations. Additionally, qualified DLC customers participating in the Program that are in an Environmental Justice Area or that operate vehicle fleets may be eligible for a rebate from DLC to offset their costs of EV charging stations, pursuant to Section 6 of this Agreement.
2. **Definitions.** When capitalized in this Agreement, the following words or phrases shall have the meanings specified.
 - a. **Applicable Laws** – All applicable federal, state, and local laws, codes, ordinances, rules, regulations, judgements, decrees, directives, guidelines, policy requirements, and orders of any governmental entity having jurisdiction over the Program, the services set forth in the Agreement, or any work DLC or Customer performs relating to this Agreement.
 - b. **Charging Equipment** – The electric vehicle charging equipment installed at the Customer Location that is used to deliver electricity from the Make-Ready Electric Infrastructure to an electric vehicle. Charging Equipment includes the electric vehicle connectors; attachment plugs; and all other fittings (including the charger), devices, power outlets, or apparatuses associated with the installed device, but does not include the Make-Ready Electric Infrastructure.
 - c. **Charging Station Package(s)** – Charging Equipment, software, and network services approved for the Program.
 - d. **Commencement Date** – the commissioning date of the Charging Station Package.
 - e. **Customer Location** – 915 Wood Street, Wilkesburg, PA 15221.
 - f. **DC Fast Charging Station** – Direct-current (DC) fast charging station equipment (minimum 50kW per port) used to deliver electricity to charge an electric vehicle.
 - g. **Dual Port Level 2 Charging Station** – Alternating-current (AC) charging station equipment (minimum 7.2kW per port) with two ports used to deliver electricity to charge an electric vehicle.
 - h. **Environmental Justice Area** – as defined by the Pennsylvania Department of Environmental Protection (DEP), any census tract where 20 percent or more of the population live at or below the federal poverty line, and/or 30 percent or more of the population identifies as a non-white minority, based on data from the U.S. Census Bureau and the federal guidelines for poverty.
 - i. **EV Service Connection** – Traditional electric utility infrastructure from the utility distribution system up to and including the meter, which may include but is not limited to cable, conductors, conduit, transformers and associated substructures from the utility distribution system.
 - j. **Make-Ready Electric Infrastructure** – Consists of fixtures and apparatus necessary to connect the traditional electric utility infrastructure to the Charging Equipment stub, which may include conduit from the terminal pole to the transformer pad, transformer pad, including ground grid and ground rods, secondary conductor and conduit from the transformer pad to the meter base, utility service meter socket, electric service panel, required electrical and data conductors and conduits along with required junction boxes, and other fixtures and apparatus thereto belonging.



k. **Service Point** – The point at which DLC's service supply facilities terminate and Customer's facilities for receiving service begin, as defined at 52 Pa. Code § 57.1. With respect to electric service to the Charging Equipment, the Service Point shall be the location identified in the License Agreement executed by Customer pursuant to Section 4(e) of this Agreement.

3. **Customer Eligibility Requirements.** As a condition of Program participation, including eligibility for rebates, the Customer must comply with the eligibility requirements below. Customer may be required to provide documentation to DLC to demonstrate eligibility in a form acceptable to DLC, upon request. Customer guarantees that they will satisfy, for the duration of this Agreement, each of the Program eligibility criteria as outlined below:

- a. Customer is a DLC non-residential customer and DLC account holder for electric service at the Customer Location, including electric service to the Charging Station Package.
- b. Customer owns or leases the Customer Location.
- c. Customer has full authority to make decisions regarding the installation, ownership and maintenance of Charging Station Package, including authority to execute this Agreement and fulfill Customer's obligations hereunder.
- d. Customer's Charging Station Package(s) installed in connection with the Program will meet at least one of the following:
 - i. Charging Station Package(s) will be available for use by fleet EVs at the Customer Location and Customer owns, leases, or operates a fleet of at least six on-road vehicles.
 - ii. Charging Station Package(s) will be available for use by the public at the Customer Location.
 - iii. Charging Station Package(s) will be available for shared use among tenants of a multi-family property at the Customer Location.
 - iv. Charging Station Package(s) will be available for use by those employed at the Customer Location.

4. **Customer Responsibilities.**

- a. **Costs:** Except for the costs incurred by DLC to undertake its responsibilities set forth in Section 5 of this Agreement, Customer will pay all other costs associated with this Agreement. Certain costs initially borne by Customer may be eligible for a rebate from DLC, as discussed further in Section 6 of this Agreement. As a condition of such a rebate, Customer will provide proof, acceptable to DLC in its sole determination, evidencing Customer's actual costs. Customer will provide such documentation no later than thirty (30) days from the Commencement Date, unless DLC grants a written extension of time.
- b. **Charging Station Procurement:** Customer must procure and install the Charging Station Package(s) in accordance with the following requirements:
 - i. Unless the Parties otherwise agree, Customer must procure the Charging Station Package(s) within thirty (30) days of DLC's provision of initial Construction Drawings pursuant to Section 5(b) of this Agreement, from a DLC-provided list of qualified vendors for the Program and shall provide proof of such acquisition to DLC. Failure to procure the Charging Station Packages for the Customer Location and provide such proof to DLC within the required timeframe will be considered a material breach of the Agreement by Customer, and DLC may, in its sole discretion, terminate this Agreement immediately upon written notice to Customer.
 - ii. Customer must install a minimum of two (2) Dual Port Level 2 Charging Stations or two (2) DC Fast Charging Stations. Notwithstanding the following, if the Customer Location is in an Environmental Justice Areas, Customer is only required to install one (1) Dual Port Level 2 Charging Station.
 - iii. Taking into account the above minimum requirements, Customer and DLC will mutually agree upon the number and type of Charging Stations to be installed at the Customer Location. Customer acknowledges that DLC is relying upon the number and type of Charging Station Packages agreed to between the Parties and that DLC's Make-Ready Electric Infrastructure is designed accordingly. As such, Customer agrees to install the number and type of Charging Stations as mutually agreed upon with DLC.
- c. **Location:** Customer will provide a location acceptable to DLC, in DLC's sole determination, to deploy Make-Ready Electric Infrastructure and Charging Station Package(s). DLC reserves the right to terminate this Agreement where a suitable location is not provided. DLC shall determine location suitability, in its sole discretion, based on factors including (but not necessarily limited to) the location's proximity to transformers, length of trenching, technical feasibility of installing and/or maintaining Make-Ready Electric Infrastructure, available electric transmission and distribution capacity, ease of access for EV drivers, installation and/or maintenance costs, and projected incremental revenues.



- d. **Coordination:** Customer will assist in coordinating installation and maintenance of the Make-Ready Electric Infrastructure at the Customer Location with DLC and its contractor(s), including any applicable Charging Station Package manufacturers, vendors, or subcontractors, who provide services in connection with installing and maintaining the Make-Ready Electric Infrastructure. This will include issuing or obtaining any necessary access rights to the Customer Location for the installation and maintenance of the Make-Ready Electric Infrastructure as detailed in Section 4(e) below. Upon request, Customer agrees to meet with DLC to review installation time schedules and/or to track the status of the installation work.
- e. **License Agreement:** Customer grants to DLC and its representatives physical access to the Make-Ready Electric Infrastructure in accordance with DLC's retail tariff. Customer will issue or obtain a license acceptable to DLC and executed by the owner of the Customer Location, to ensure DLC and its representative(s) access to the Customer Location for the installation, operation, maintenance, and removal, as applicable, of the Make-Ready Electric Infrastructure.
- f. **Service Point:** With respect to electric service to the Charging Equipment, Customer agrees that the Service Point shall be the location identified in the license agreement executed hereunder.
- g. **Charging Station Package Installation:** Customer must install the Charging Station Package(s) at the Customer Location within sixty (60) days of the completion of the installation of the Make-Ready Electric Infrastructure, unless otherwise agreed to in writing by DLC.
- h. **Charging Station Package Maintenance:** After installation of both the Charging Station Package(s) and Make-Ready Electric Infrastructure is complete, Customer is responsible for the operation and maintenance of the Charging Station Package(s) for the duration of this Agreement and guarantees the safe and reliable operation of the Charging Equipment by Customer in accordance with Applicable Laws. Customer must maintain the area surrounding the Make-Ready Supply Electric Infrastructure and Charging Equipment, including but not limited to, pavement maintenance, pruning of vegetation, snow removal, and the repair of security lighting.
- i. **Charging Station Package Availability and Uptime:** After installation of the Charging Station Package(s) is completed, Customer guarantees the Charging Station Package(s) at Customer Location will be in full working order and available for EV charging at least 95 percent of the time annually.
- j. **Charging Station Package Inspections:** Customer will grant access at all reasonable times for DLC or its representatives to inspect the Charging Station Package(s) and any relevant supporting documentation to verify compliance with the Program rules and requirements or to verify the accuracy of any submitted project documentation. This may include pre-installation and/or post-installation inspections, or verification of installed Charging Station Package(s). Customer understands and agrees that Charging Station Package(s) installations may also be subject to inspections by the Pennsylvania Public Utility Commission (PUC), its designee or DLC's independent evaluators, and photographs of installation may be required.
- k. **Make-Ready Electric Infrastructure Maintenance:** Customer will promptly notify DLC in the event Customer becomes aware that the Make-Ready Electric Infrastructure fails to operate or otherwise requires repair. Customer may remedy minor issues with the Make-Ready Electric Infrastructure that do not require qualified technicians to address, such as resetting circuit breakers.
- l. **Charging Station Package Network Service and Permission to Use Data:** Customer agrees to subscribe to a charging station network service and shall direct the chosen Charging Station Package vendor to share usage data with DLC (excluding personally identifiable information of individuals who charge vehicles at the Charging Station Packages) on a recurring basis for the life of this Agreement. Customer shall ensure communications connectivity to the Charging Station Packages as necessary for the proper functioning of the Charging Station Package(s) network service. Customer shall provide additional information as DLC may reasonably request in connection with stakeholder collaboratives and reporting obligations. Customer grants DLC, its agents and representatives the unrestricted right to access and use all data gathered as part of the Program for use in regulatory reporting, ordinary business use, industry forums, case studies or other similar activities, in accordance with applicable laws and regulations; provided, however, that DLC shall not disclose personally identifiable or confidential information collected through the Program, except (i) as required by law, or (ii) where such information is aggregated with that of other customers', so as to obscure personally identifiable content.
- m. **Electric Service:** Customer agrees to pay for electric service delivered to the Charging Equipment and abide by all other applicable requirements of DLC retail tariff for the duration of the Agreement.
- n. **Documentation.** Customer acknowledges that DLC has the right to ask for additional information at any time and, if applicable, has sole discretion to make the final determination on any Charging Equipment rebate amounts provided to Customer under the Program.



5. DLC Responsibilities.

- a. **Costs:** DLC shall be responsible for the cost of designing, purchasing, installing, operating, and maintaining the Make-Ready Electric Infrastructure during the term of this Agreement, as well as the cost of any rebate provided pursuant to Section 6 below.
- b. **Make-Ready Electric Infrastructure Design:** DLC and/or its contractors will prepare construction drawings ("Construction Drawings") for the Make-Ready Electric Infrastructure at the Customer Location. The Construction Drawings will show the proposed Make-Ready Electric Infrastructure and its location(s) within the Customer Location. Prior to DLC commencing construction of the Make-Ready Electric Infrastructure, Customer must approve the Construction Drawings, and such approval not to be unreasonably withheld or delayed. Once approved, the Construction Drawings may be modified only upon the mutual consent of both Parties.
- c. **Make-Ready Electric Infrastructure Installation:** DLC will prepare and coordinate with Customer on a Make-Ready Electric Infrastructure installation schedule agreeable to both Parties (the "Installation Schedule"). DLC and/or its contractors will obtain all necessary permits required for the installation of the Make-Ready Electric Infrastructure.
- d. **Make-Ready Electric Infrastructure Ownership:** Except as otherwise provided in this Agreement, DLC will retain title and ownership of the Make-Ready Electric Infrastructure once installation and commissioning are complete. Customer shall acquire no right, title, or interest in any portion of the work performed by DLC, in DLC's equipment, or in the Make-Ready Electric Infrastructure unless transferred to Customer under the provisions in Section 7. The work constructed and installed by DLC shall be and remain the personal property of DLC, shall not be considered a fixture of the property, shall not attach to the realty, and shall not be alienable or lienable by Customer or any third-party for the duration of this Agreement. Customer shall not allow lien claims, third-party interest, or any encumbrances to be placed on the Make-Ready Electric Infrastructure. DLC shall not permit any mechanics or other liens to be placed on Customer property during the Term of this Agreement caused by or resulting from any work performed, materials, or supplies furnished by or at the request of DLC or its contractors.
- e. **Make-Ready Electric Infrastructure Maintenance:** DLC shall maintain, at its own expense, the Make-Ready Electric Infrastructure at the Customer Location for the duration of this Agreement, unless terminated earlier as provided herein. DLC may engage one or more third-party contractors to complete its obligations under this Agreement. DLC shall be responsible for supervising any third-party contractor it chooses to retain. After installation of, and while DLC owns, the Make-Ready Electric Infrastructure, upon notice by Customer, DLC shall repair the Make-Ready Electric Infrastructure in a timely manner as needed in DLC's reasonable judgement.
- f. **Make-Ready Electric Infrastructure Replacement:** In the case of total equipment failure of all or a portion of the Make-Ready Electric Infrastructure not covered by any manufacturer's warranty, unless directly caused by DLC, or its employees, agents or contractors, Customer may either request that DLC replace the necessary equipment at Customer's expense or terminate this Agreement pursuant to Section 8(c). Should the equipment failure be determined to be directly caused by DLC, or its employees, agents, or contractors, DLC shall replace the necessary equipment at DLC's cost and expense, except where DLC no longer offers make-ready as a PUC-approved utility service. Should the Make-Ready Electric Infrastructure need to be replaced due to the negligence of Customer or of Customer's contractors, agents, users, or invitees, then Customer shall be liable to DLC for the full cost to replace the Make-Ready Electric Infrastructure.

6. Rebates. Customer may qualify for a rebate under the Program, as determined by DLC in its sole discretion pursuant to Applicable Laws. Rebates are only available where Customer is located in an Environmental Justice Area or operates fleet EVs at the Customer Location pursuant to Section 3(d)(i) of this Agreement.

- a. Customer's rebate, as determined by DLC, shall be \$14,117.00.
- b. Upon Customer's satisfaction of any rebate requirements, DLC shall provide the above rebate to Customer within ninety (90) days of the later of either (i) the Commencement Date; or (ii) receipt of Customer's cost information satisfactory to DLC, in its sole discretion. For Customers that operate fleet EVs at the Customer Location pursuant to Section 3(d)(i) of this Agreement, such rebate shall not exceed fifty percent (50%) of Customer's actual reasonable costs of the Charging Station Package(s); and for other qualifying Customers located in an Environmental Justice Area, such rebate shall not exceed the lesser of five-thousand dollars (\$5,000) per Dual Port Level 2 Charging Station or Customer's actual reasonable costs of the Charging Station Package(s).



7. Term & Termination.

- a. **Term:** This Agreement shall become effective upon the Effective Date. The term of this Agreement (the "Term") shall be from the Effective Date and shall remain in effect for a period of ten (10) years from the Commencement Date unless terminated earlier as set forth in this Agreement.
- b. **Termination For Cause:** Either Party may terminate this Agreement if the other Party materially breaches any of its obligations under the Agreement, provided, however, that prior to such termination the Party seeking termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within thirty (30) days of the notice (or if the breach is not one that can be reasonably cured within thirty (30) days and if the breaching Party is not working diligently to cure such breach), then the Party giving notice may terminate the Agreement.
- c. **Termination Without Cause:** DLC may terminate this agreement without cause upon thirty (30) days written notice to Customer.
- d. **Effect of Termination:**
 - i. If Customer terminates pursuant to Section 7(b) for DLC's material breach of the Agreement or if DLC terminates pursuant to Section 7(c), and Make-Ready Electric Infrastructure installation is not complete, DLC shall remove the Make-Ready Electric Infrastructure at its expense. If Customer terminates pursuant to Section 7(b) for DLC's material breach of the Agreement or if DLC terminates pursuant to Section 7(c), and the Make-Ready Electric Infrastructure has been installed, DLC shall transfer title to the Make-Ready Electric Infrastructure to Customer, without any payment from Customer, and the Make-Ready Electric Infrastructure shall be deemed abandoned in place in "AS IS" condition, without any warranty (express or implied) from DLC.
 - ii. If DLC terminates pursuant to Section 7(b) for Customer's material breach of the Agreement or Customer otherwise abandons or disconnects the Charging Equipment, Customer shall pay to DLC an amount equal to the full Charging Station rebate amount, plus DLC's actual costs of the Make-Ready Electric Infrastructure (as DLC shall calculate in its sole discretion) reduced by ten percent (10%) for each full year between the Commencement Date and the date of the termination. Title of the Make-Ready Electric Infrastructure shall be transferred to Customer in "AS IS" condition, without any warranty (express or implied) from DLC.
 - iii. Upon termination of this Agreement pursuant to Section 7(a) after completion of the Term, Customer may either elect to (a) take ownership and title of the Make-Ready Electric Infrastructure "AS-IS" without any warranty (express or implied) from DLC; or (b) direct DLC to remove the Make-Ready Electric Infrastructure at Customer's expense (including the costs for disposal of the Make-Ready Electric Infrastructure and any restoration costs). If Customer does not make arrangements with DLC for removal at least thirty (30) days prior to the expiration of the Term, title and ownership of the Make-Ready Electric Infrastructure shall automatically pass to Customer upon expiration of the Term.
 - iv. A Party terminating this Agreement pursuant to Section 7(b) does not waive its rights to any remedy at law or in equity for a material breach of the Agreement.
 - v. Upon termination or expiration of this Agreement, to the extent that Customer take ownership of the Make-Ready Electric Infrastructure, Customer assumes the responsibility for maintaining and ultimately disposing of the Make-Ready Electric Infrastructure per all Applicable Laws.

8. Warranties, Indemnification and Limitation of Liability.

- a. **DLC Warranty.** DLC, itself or through its contractor(s), shall perform the installation and maintenance of the Make-Ready Electric Infrastructure in a safe and professional manner in accordance with Applicable Laws. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 8(a), DLC MAKES OR PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AGAINST INFRINGEMENT, WITH RESPECT TO THE WORK TO BE PERFORMED, SERVICES TO BE PROVIDED, OR MAKE-READY ELECTRIC INFRASTRUCTURE TO BE DELIVERED UNDER THIS AGREEMENT. In THE EVENT TITLE TO THE MAKE-READY ELECTRIC INFRASTRUCTURE IS TRANSFERRED TO CUSTOMER IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, THE MAKE-READY ELECTRIC INFRASTRUCTURE IS PROVIDED "AS-IS" AND WITH NO WARRANTIES OF ANY KIND. DLC DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DLC DISCLAIMS ANY WARRANTY OF CONTINUOUS OR UNINTERRUPTED SERVICE.



- b. Disclaimer of Consequential Damages. Neither Party shall be liable to the other Party for any indirect, incidental, or consequential damages, including, without limitation, loss of profits or revenue, regardless of whether a Party has been informed of the possibility of such damages.
 - c. Other Disclaimers: DLC does not guarantee the performance or operation of the Charging Station Package and expressly disclaims all warranties, whether expressed or implied, including without limitation all warranties of merchantability and of fitness for a particular purpose. DLC has no obligations regarding and does not endorse or guarantee any claims, promises, work or equipment made, performed or furnished by any contractors or vendors that sell or install any Charging Station Packages. DLC is not liable for any damage caused by the operation or malfunction of the installed Charging Station Package, except to the extent directly caused by the Make-Ready Electric Infrastructure. DLC makes no representations regarding manufacturers, dealers, contractors, materials or workmanship of the Charging Station Package. Customer agrees that DLC has no liability whatsoever concerning the quality and safety of such products or services.
 - d. Indemnification. DLC shall indemnify and hold harmless, Customer and its employees, officers, directors, partners and affiliates (the "Customer Indemnified Parties") from and against any liability arising from the negligent acts or willful misconduct of DLC's employees, agents, or subcontractors arising from the installation of the Make-Ready Electric Infrastructure. Additionally, to the fullest extent allowed by Applicable Laws, Customer shall indemnify and hold harmless, DLC and its employees, contractors, agents, officers, directors, and affiliates (the "DLC Indemnified Parties") from and against any claims, lawsuits, liability, losses, damages or expenses (including attorney's fees) arising out of, resulting from, or in any way connected with: (i) the Charging Equipment, (ii) Customer's, or its employees', agents', contractors', users', or invitees' negligent acts or omissions or willful misconduct; or (iii) violation of Applicable Laws.
 - e. Limitation of Liability. In no event will DLC be liable to Customer for any claims, expenses, losses, damages, or lawsuits arising out of any interruptions or disturbances of electric service. Except to the extent arising from DLC's indemnification obligations outlined in Section 8(d), DLC's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this Agreement, or the performance or breach thereof, shall in no case exceed the total dollar amount for the specific work giving rise to the claim.
 - f. Insurance. During the term of this Agreement, each of the Parties shall obtain and maintain at its sole cost and expense, insurance sufficient to insure such Party against liability for bodily injury, property damage, wrongful death and any contractual indemnity obligations imposed by this Agreement. Furthermore, DLC shall ensure that all subcontractors meet the same insurance requirements.
9. **Changes.** DLC may initiate changes to the Program and to this Agreement as necessary to comply with lawful directives from the PUC. DLC shall endeavor to provide Customer with reasonable notice of such changes.
10. **General Terms.**
- a. Assignment. Customer shall not assign this Agreement, in whole or in part, without first obtaining DLC's written consent, such consent not to be unreasonably withheld, conditioned, or delayed, provided, however, that Customer may assign this Agreement to any third party in connection with the sale or transfer of all or substantially all of the assets of the business upon notice to DLC (no consent required). Unless otherwise agreed to in writing by DLC, no assignment will release or discharge Customer from any obligations under the agreement. Any prohibited assignment or delegation shall be null and void.
 - b. No Third-Party Beneficiary. This Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise, to third parties.
 - c. Laws, Codes, Rules and Regulations. The Parties, and their respective agents, contractors and subcontractors, shall obtain all necessary licenses and permits at their own expense and shall comply with all Applicable Laws.
 - d. Dispute Resolution. In the event of a dispute arising out or relating to this Agreement, the aggrieved Party shall promptly notify the other Party and the Parties shall attempt in good faith to settle all disputes through internal resolution between the Parties.
 - e. Governing Law and Jurisdiction. The Agreement shall be governed by, enforced and interpreted in accordance with the substantive laws of the Commonwealth of Pennsylvania, without regard to its internal conflict of law principles. Any litigation shall be filed and pursued exclusively in state or federal court in Pittsburgh, Pennsylvania, or at the PUC, and the Parties hereto waive any claim based on inconvenient forum or venue, or lack of jurisdiction. The UN Convention on Contracts for the



International Sale of Goods (CISG) shall not apply to the transaction represented hereby. Neither Party may claim the right to a trial by jury, and both Parties waive any right they may have under applicable law or otherwise to a trial by jury.

- f. Force Majeure. Neither Party shall be in breach of the Agreement to the extent that any delay or default in performance is due to causes beyond the reasonable control of the delayed or defaulting party ("Force Majeure Event"), provided that the delayed or defaulting party immediately notifies the other Party of the Force Majeure Event, an estimate of the duration of the Force Majeure Event, and the delaying or defaulting party's plan to mitigate the effects of the delay or default.
- g. Property of DLC. All reports, drawings, plans, specifications, calculations, studies, models, and memoranda, if any, assembled or prepared by DLC, independent professional associates, agents, consultants, contractors, or subcontractors pursuant to this Agreement are instruments of service in respect of the Agreement, and DLC shall retain all ownership and property interest therein. Customer may make and retain copies for information and reference in connection with the Program, provided, however, that it is understood and agreed that such documents are not intended to be re-used by Customer or others on extensions of the Program or on any other project or for any other purpose other than as expressly set forth in this Agreement, and Customer shall not re-use or disclose to any third party all or any portion of such work product without the express prior written consent of DLC, which consent shall not be unreasonably withheld.
- h. Confidential Information. The Parties agree to treat as confidential and proprietary, and to not disclose to any third party, any of the other Party's information which is not generally known to the public, which is otherwise identified as confidential or proprietary in nature, or which reasonably would be understood by a prudent person to be confidential ("Confidential Information"), and to exercise the same care to prevent the disclosure of such information as receiving party exercises to prevent disclosure of its own proprietary and confidential information, but in no event with less than a reasonable standard of care. All Confidential Information shall be used only by the other Party (the "Recipient") solely for the purposes of completing this Agreement, and shall not be disclosed to any third-party, without the prior written consent of the other, except for any contractors or vendors on a need-to-know basis for the purposes of completing work under this Agreement. Each Party warrants and represents that each employee, agent, representative or contractor who performs work in connection herewith has been informed of the obligations contained herein and has agreed to be bound by them. Notwithstanding the above, either Party may disclose such information to the extent, and only to the extent as required by law, but not without first giving prompt written notice to the disclosing party and allowing the disclosing party the opportunity to contest the disclosure of such materials before the applicable court or tribunal.
- i. Consent to Disclose. Except as required by governmental or regulatory authorities, confidential information contained in any documents associated with the Program will be protected from public filings. However, Customer consents to DLC's disclosure confidential information of the Customer to the PUC and/or DLC's independent evaluators as required for further review and approval.
- j. Notice. Each Party shall designate a representative for the receipt of notices, which may be changed from time to time. All notices required to be given under the Agreement shall be in writing and delivered by personal delivery, e-mail or U.S. mail. Notices shall be effective upon receipt, or such later date specified in the notice. Notices given to DLC shall be addressed to ElectricVehicles@duqlight.com. Notices given to Customer shall be addressed to the contact information identified in the Signature Block below.
- k. No Partnership or Joint Venture. Nothing herein contained shall constitute a partnership between or joint venture by the Parties hereto or constitute any Party the agent of the other. No Party shall hold itself out contrary to the terms of this Section and no Party shall be liable for any representation, act or omission of the other contrary to the provisions hereof.
- l. Severability. If any provision(s) of this Agreement is found by a court of competent jurisdiction to be illegal or otherwise unenforceable, that finding shall not invalidate the whole agreement and the remaining provisions shall remain in full force and effect, and such invalid provisions shall be deemed to be modified to be enforceable to the fullest extent permitted by law.
- m. Survival. The provisions of this Agreement, which by their nature should survive expiration, cancellation or other termination of this Agreement, shall survive such expiration, cancellation or other termination.
- n. Waiver. A Party's failure to enforce a provision at one time shall not constitute a waiver of compliance with such provision, and a Party's waiver of a breach of any provision contained herein shall not constitute a waiver of any other breach or of any subsequent breach of the same provision. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless made in writing and signed by Customer and DLC. A Party's failure to object to terms contained in any subsequent communication from the other Party (whether in a purchase order or order acknowledgement or other communication) will not be a waiver or modification of the terms set forth herein.



- o. PUC Approval. Where Customer is a municipal corporation, as that term is defined at Title 66, Section 102 of the Public Utility Code, this Agreement is contingent upon PUC approval. In such instance, DLC will file a copy of this Agreement with the PUC as required by Title 66, Section 507 of the Public Utility Code and this Agreement shall be subject to any additional PUC directives. To the extent that any lawful PUC directives require any amendment or modification to this Agreement, DLC will promptly advise Customer of same and Customer and DLC will then negotiate such amendment to this Agreement in good faith to ensure PUC and other legal compliance is maintained.
- p. Entire Agreement. The Agreement and all related forms, documents, and attachments, contains the entire agreement between the Parties with respect to the subject matter and supersedes any and all prior oral or written agreements.
- q. Electronic Signatures and Electronic Records. Both Parties consent to the use of electronic signatures. This Agreement and any other documents requiring signature hereunder may be signed electronically by either Party. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[SIGNATURES ON NEXT PAGE]



IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

Customer Name: Borough of Wilkes-Barre
By, Signature: [Signature]
Name: John Antinori
Title: Borough Manager
Notice Address: 605 Ross Ave
Wilkes-Barre, PA 18221
Email Address: JANTINORI@WILKESBARRE.PA.GOV
Date: 3/30/2023

DUQUESNE LIGHT COMPANY

By, Signature: [Signature]
Name: Emily Phan-Gruber
Title: Interim Manager, Transportation Electrification
Date: 3/30/23