This Agreement is effective as of January 1, 2024 (the "Effective Date")

NET INCOME SHARE AGREEMENT

BETWEEN

CITY OF TORONTO
(hereinafter called the "City")

OF THE FIRST PART

- and -

TORONTO PARKING AUTHORITY
(hereinafter called the "TPA")

OF THE SECOND PART

WHEREAS the TPA was established under subsection 88(1) of the City of Toronto Act, 1997 (repealed) and is continued as a City Board under sections 6, 7 and 141 of the City of Toronto Act, 2006;

WHEREAS the TPA is an agent of the City for the purposes set out in Toronto Municipal Code Chapter 179, Parking Authority;

WHEREAS the City and the TPA have collaborated to develop the principles that will ensure that TPA has access to sufficient funding to fund its Capital Program and continue to make annual contributions to the City;

WHEREAS the City and TPA have agreed to two key adjustments from the previous agreement related to the income share formula and the inclusion of direct funding from the City towards TPA's Off-Street EV Charging and Bike Share Toronto investments;

WHEREAS the City and TPA entered into the City of Toronto Relationship Framework for the Toronto Parking Authority dated March 7, 2023; and

WHEREAS in Item 2024.EX15.9 Toronto City Council authorized the terms and conditions of the 2024-2026 Net Income Sharing Agreement between TPA and the City;

NOW THEREFORE, in consideration of the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and intending to be legally bound, TPA and the City agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 In addition to the terms defined elsewhere in this Agreement, the following terms have the meanings set out below:

"Applicable Law" means all statutes, laws, By-laws, regulations, and orders of governments or other public authorities having jurisdiction at any time in force that apply to the TPA, or both;

"Business Day" means any day that is not a Saturday, a Sunday, or a legal holiday in the Province of Ontario;

"City" means the City of Toronto;

"Financial Statements" means, for any particular period, comprehensive financial statements of the TPA consisting of a statement of revenues and expenditures, and such other statements, reports, notes, and information as are required by and prepared in accordance with IFRS Accounting Standards for Canadian municipalities;

"Net Income" means income available for distribution as defined in the Toronto Parking Authority's annual audited financial statements subsequent to the approval of the TPA's Board of Directors. For clarity, this excludes income earned on rented properties which is paid into the Rented Properties Fund held by the City;

"Term" means the three (3) year period starting January 1, 2024 and ending December 31, 2026.

"TPA" means the Toronto Parking Authority.

1.2 The inclusion of headings in this Agreement are for convenience of reference only and shall not affect the construction of interpretation of this Agreement.

1.3 In this Agreement, unless the context otherwise required, words importing the singular include the plural and vice versa, and words importing gender include all genders.

1.4 Except where otherwise expressly provided, all amounts in this Agreement are stated, and shall be paid, in Canadian Dollars.

1.5 In the event that a court of competent jurisdiction determines that any provision of this Agreement is invalid, inapplicable or unenforceable, then either Part may propose, by notice to the other Party, a replacement provision, and the Parties shall engage in good faith negotiations to replace such provision with a valid, enforceable, and applicable provision, the economic effect of which substantially reflects that of the invalid, unenforceable or inapplicable provision which it replaces.

1.6 This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all previous agreements and understandings, oral and written. There are no warranties, conditions or representations and there are no agreements in connection with the subject matter of this Agreement, except as specifically set forth or referred

to in this Agreement. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made by a Party to his Agreement, or its Representatives, to the other Party to this Agreement, or its Representatives, except to the extent that the same has been reduced to writing and included as a term of this Agreement.

1.7 This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the federal laws of Canada applicable to the Province of Ontario.

ARTICLE 2
NET INCOME DISTRIBUTION

2.1 The Net Income available for distribution shall be defined in TPA's annual audited Financial Statements. The Financial Statements shall be submitted to the Chief Financial Officer in accordance with the terms of the City of Toronto Relationship Framework for the Toronto Parking Authority dated March 7, 2023.

2.2 The TPA shall pay to the City the greater of:

(i) 75% of Net Income earned by the TPA in the current year; or

(ii) 75% of Net Income earned by the TPA in the prior year,

subject to unforeseen and uncontrollable circumstances which result in significant service disruption or is the result of new legislated obligations which may have an adverse and material effect on the TPA's financial position.

2.3 The Chief Financial Officer, in his or her sole discretion, may waive or defer payments on a case-by-case basis.

2.4 The TPA shall make four (4) equal quarterly progress payments to the City at the end of each fiscal quarter-end, which add up to 75% of the Net Income budgeted in the current year.

2.5 Final settlement between the TPA and the City of the amount payable for each year of the Term, being the difference between the City's 75% share of Net Income and progress payments made by the TPA, shall occur once the TPA's Net Income for that year is confirmed by the external auditors and the audited Financial Statements are approved by the TPA's Board of Directors.

ARTICLE 3
CAPITAL PROGRAM CONTRIBUTION

3.1 The City shall provide the TPA with annual cash flow funding to support the Bike Share Toronto and Off-Street EV Charging capital programs payable at the beginning of each fiscal year as follows:

(i) $8.7 million in 2024;

(ii) $25.8 million in 2025; and

(iii) $13.5 million in 2026.

3.2 The City shall work with the TPA to review opportunities for incremental capital investments subject to the capital program review as part of the annual budget process, proportional to the value of additional Net Income achieved above the budgeted City share. For clarity, where TPA generates above budget Net Income, TPA may request to the City that these funds be entirely reinvested for incremental capital investments.

ARTICLE 4
TERM

4.1 The Term of the Agreement is for a three (3) year period from January 1, 2024 to December 31, 2026.

ARTICLE 5
GENERAL

5.1 All notices pertaining to this Agreement not explicitly permitted to be in a form other than writing shall be in writing and shall be addressed to the other Party as follows:

If to TPA:

Scott Collier, President
Email: tpa.president@greenpmobility.com
33 Queen Street East
Toronto, Ontario M5C 1R5

If to the City:

Stephen Conforti, Chief Financial Officer and Treasurer
Email:
100 Queen Street West
City Hall East Tower, 4th Floor
Toronto, Ontario M5H 2N2

Notice shall be delivered or transmitted as set out below, and shall be considered to have been received by the other Party:

5.1.1.1 On the date of delivery if delivered by hand, by courier or by e-mail prior to 5:00 PM (local time of the recipient) on a Business Day and otherwise on the next following Business Day (it being agreed that the burden of establishing delivery shall be on the Party delivering notice);

5.1.1.2 On the 5th Business Day following the date of mailing by registered post.

5.2 This Agreement may be supplemented, amended, restated or replaced only by written agreement signed by each Party.

5.3 Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if in writing signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

5.4 This Agreement is solely for the benefit of the Parties and no third parties shall accrue any benefit, claim or right of any kind pursuant to, under, by or through this Agreement.

5.5 Each Party irrevocably and unconditionally attorns to the jurisdiction of the courts of the province of Ontario.

5.6 TPA acknowledges that the obligations of the City in this Agreement will not in any way limit or restrict the City from passing of adopting Applicable Laws in its capacity as a municipal government.

5.7 Each Party shall solely be responsible for the payment of all taxes, and other costs relating to the employment of such Party of Persons who perform this Agreement, including all federal, provincial and local income, social insurance, health, payroll and employment taxes and statutorily mandated workers' compensation coverage. None of the Persons employed by either Party shall be considered employees of the other Party for any purpose. Nothing in this Agreement shall create or be deemed to have created a relationship of partners, fiduciary, principal and agent or other relationship between the Parties.

5.8 Except as otherwise set out in this Agreement, this Agreement shall not confer upon any other Person, except the Parties and their respective successors and permitted assigns, any rights, interests, obligations, or remedies under this Agreement.

5.9 The expiration of the Term of this Agreement shall not affect or prejudice any rights or obligations that have accrued or arisen under this Agreement prior to the time of the expiration and such rights and obligations shall survive the expiration of this Agreement for a period equal to the applicable statute of limitation.

5.10 Time is of the essence in the performance of the Parties' respective obligations under this Agreement.

5.11 This Agreement may be executed in one or more counterparts and delivered electronically, each of which will be deemed an original but all of which taken together will constitute one and the same Agreement. This Agreement may be executed by electronic signature that is received by the City in a file format acceptable to the City. Such electronic signature shall be deemed to be an original signature for the purpose of this Agreement with the same legal effect as an original signature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS HEREOF the parties hereto have duly executed this agreement by the hands of their respective proper signing officers in that behalf duly authorized.

CITY OF TORONTO

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Name: Stephen Conforti
Title: Chief Financial Officer and Treasurer

TORONTO PARKING AUTHORITY

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Name: W. Scott Collier
Title: President