



**ELECTRIC VEHICLE SERVICE EQUIPMENT (EVSE)
OPERATING AGREEMENT**

SUMMARY OF FUNDAMENTAL PROVISIONS

EFFECTIVE DATE: Commissioning Date _____

SITE OWNER: Company Name: Geneseo Self Storage
Address: 112 Riverside Drive Geneseo, NY 14454

SITE OWNER CONTACT PERSON/DEPARTMENT: Name: Andrew Follman
Title: Manager

CONTACT PHONE/EMAIL: E-Mail Address: andrewjfolman@gmail.com
Contact Phone Number: 5855900925

CHARGESMART EV: ChargeSmart EV, LLC
5 Southside Dr., STE 11-184
Clifton Park, NY 12065

CONTACT PERSON: Salvatore Valle

CHARGESMART EV PHONE/EMAIL: (585) 943 9980
sal@ChargeSmartEV.com

NUMBER OF EVSE UNITS AND INSTALLATION SITES: 4

COMMENCEMENT DATE: The Activation Date (A future date to be determined pursuant to the terms of, and as defined within, this Agreement)

INITIAL TERM: 5 years from the Activation Date

ELECTRIC VEHICLE SERVICE EQUIPMENT (EVSE)

OPERATING AGREEMENT

This ELECTRIC VEHICLE SERVICE EQUIPMENT (EVSE) OPERATING AGREEMENT (the "Agreement"), dated as of Date station goes live, by and between **CHARGESMART EV, LLC**, a New York limited liability company with an address at 5 Southside Drive, Suite 11-184, Clifton Park, New York 12065 ("ChargeSmart EV") and **Andrew Viera LLC**, a LLC with an address at 112 Riverside Drive Geneseo, NY 14454 (the "Site Owner"). ChargeSmart EV and Geneseo Self Storage, each a "Party" and collectively shall be referred to as the "Parties".

RECITALS

ChargeSmart EV sells certain electric vehicle equipment software (the "Software") and communications networks (the "ChargeSmart EV Network") and related or associated services (the "Services"). Each charging station charger, including installation and hardware is referred to as an "EVSE Unit."

AGREEMENT

1. Site Maintenance(s). Site Owner hereby grants ChargeSmart EV the right and authority to operate and/or maintain one or more EVSE Units at each Installation Site, as such EVSE Units are set forth in Section A, during the term of this Agreement. Site Owner also hereby grants ChargeSmart EV the right an authority to enter upon the Installation Site as may be reasonably necessary to install or maintain such EVSE Units as may be deemed necessary by ChargeSmart EV, and to protect the rights of ChargeSmart EV under the terms of this Agreement.
2. Installation Site(s). Site Owner agrees that it, or its contractors, will perform or engage other qualified professionals to perform the necessary electrical and other contracting services, including obtaining required municipal permits, approvals and inspections required for the purpose of authorizing and completing the installation of the EVSE Units at each Installation Site. Installation needs to be compliant with manufacturers installation instructions. As of the Effective Date of this Agreement as provided for on the cover sheet attached hereto, and as detailed in Section A attached hereto and made a part hereof, the Parties will mutually agree on the terms and conditions with regard to Installation of Software at the Sites and the number of EVSE Units per Installation Site. The Parties will execute and attach said Section A, which lists all Installation Sites, and the number of EVSE Units allowed and to be constructed and maintained at each Installation Site.
3. Operation.
 - 3.1 ChargeSmart EV and/or its agents or affiliates will be solely authorized to operate the ChargeSmart EV Network and provide the Services during the Term (as defined herein). Site owner understands that, unless mutually agreed otherwise by the Parties in writing, the EVSE may only provide charging or EV services when connected to the ChargeSmart EV Network. The ChargeSmart EV Network may only be provided by ChargeSmart EV or its authorized partners, agents or affiliates. ChargeSmart EV may, at its discretion, modify the ChargeSmart EV Network at any time provided that functionality shall not be materially degraded from that available as of the Effective Date of this agreement.
 - 3.2 ChargeSmart EV reserves the right to schedule reasonable downtime to accomplish necessary updates or system upgrades, which downtime may not exceed 0.05% of available time each calendar month.
 - 3.3 Site Owner understands and agrees that any relocation of the EVSE Units from the original Installation Site (a "Relocation") may cause the EVSE Units to be disconnected from ChargeSmart EV Services. In the event that Site Owner chooses to relocate any EVSE Unit or Units from the original Installation Site, Site Owner shall notify ChargeSmart EV within 30 business days of the transfer, and at such time this Agreement shall be amended to accurately list and provide for the new location(s). A failure of Site Owner to give ChargeSmart EV notice of any Relocation shall be considered a default under this Agreement.
 - 3.4 Electrical, cellular and internet Service Interruptions: Neither ChargeSmart EV nor Site Owner shall have any liability whatsoever to the other with respect to damages caused by: (i) electrical outages, power surges, utility load management or any other similar electrical service interruptions whatsoever the cause, (ii) interruptions in wireless or cellular service linking EVSE Units to the ChargeSmart EV Charging Network intrusions: or (iii) interruptions in services provided by any internet service provider not affiliated with ChargeSmart EV. This includes the loss of data resulting from such electrical wireless, cellular or internet service interruptions.
4. Software.
 - 4.1 Software embedded in the EVSE Units and ChargeSmart EV Network may be provided in connection with the EVSE Units.
 - 4.1.1 The Software is licensed, not sold. All right, title, and interest in and to the intellectual property of any kind associated with the ChargeSmart EV Software is reserved to, and belongs to, ChargeSmart EV. This agreement only gives certain limited rights to Site Owner to use the software. ChargeSmart EV reserves all other rights and sole ownership and control of the Software. Site Owner may not attempt to reverse engineer, decompile or disassemble the software. Any efforts to do so by Site Owner shall be considered a default under this Agreement, and ChargeSmart EV reserves all rights in law and equity with regard to any claim or action brought to recover damages or related thereto.
 - 4.1.2 Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information or intellectual

property, developed in whole or in part by ChargeSmart EV in connection with the Services, this Agreement or ChargeSmart EV's normal course of business, whether with or without contribution by the Site Owner, shall be and remain the exclusive property of ChargeSmart EV.

- 4.1.3 The software includes encryption technology that may be subject to United States export laws and regulations. Site Owner must comply with all domestic and international export laws and regulations that may apply to the software. These laws include restrictions on destinations, end users and end use. It is the responsibility of Site Owner to understand and comply with any such laws and regulations, when and if applicable.
- 4.1.4 ChargeSmart EV will record and transmit EV charging usage, per each individual EVSE Unit port if applicable, and other data to any utility, energy commission or authority with jurisdiction that has provided or may provide any rebates, incentives or program that requires such data sharing agreements (each a "Third Party"). Site Owner hereby authorizes ChargeSmart EV to grant said access to any such Third Party to receive, review and store information relating to EVSE Unit data, billing records, billing history, pricing information, and all meter usage data used for bill calculation for all meters participating in any Program that requires this or any other Charger Usage data. ChargeSmart EV shall not be responsible for the dissemination of such data by any Third Party, nor shall ChargeSmart EV be liable for any claims or losses brought by Site Owner due to the dissemination of such data by any Third Party.
- 4.1.5 ChargeSmart EV agrees to, if applicable, register newly installed EVSE Units with the US Department of Energy's Alternative Fuel Data Center.

5. Term.

- 5.1 The Initial Term will commence on the Commencement Date and shall consist of a term of 5 years from the Activation Date.
- 5.2 If the Parties have agreed upon one or more Extension Option (as shall be defined herein), each Extension Option will be deemed automatically exercised at the end of the then existing Term unless Site Owner or ChargeSmart EV gives notice in writing to the other Party no less than least 30 days prior to the end of the Term in effect at that time that said Party does not desire to extend the Term.
- 5.3 The terms and conditions of any Extension Option shall be provided for in this Section, if applicable. If the Parties do not agree upon any such Extension Option, then this Agreement shall terminate at the end of the Initial Term, unless the Parties shall agree otherwise in writing prior to the end of the Initial Term.
 - 5.3.1 Extension Option: [N/A]

6. Confidentiality

- 6.1 Nondisclosure of Confidential Information. Each Party acknowledges that it will have access to certain confidential or proprietary information of the other Party concerning the other Party's business, plans, Site Owner's technology, and products, and other information held in confidence by the other Party ("Confidential Information"). Site Owner, and its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, divulge, disclose, or communicate to any third-party any information that is confidential or proprietary to ChargeSmart EV ("ChargeSmart EV Information"), with the exception of any of ChargeSmart EV Information for which ChargeSmart EV has consented to dissemination, or any of ChargeSmart EV Information that is either known by said third-party or has been determined to be public knowledge. Site Owner and its employees, agents, and representatives will protect such information and treat it as strictly confidential. Any oral or written waiver or consent by ChargeSmart EV of these confidentiality obligations which allows Site Owner to disclose ChargeSmart EV's confidential information to a third-party will be limited to a single occurrence tied to the specific information disclosed to the specific third party, and the confidentiality clause will continue to be in effect for all other disclosures.

For purposes of this Contract, "ChargeSmart EV Information" shall include all information or material that has or could have commercial value or other utility in the business in which ChargeSmart EV is engaged, or information that may be proprietary to ChargeSmart EV. Site Owner shall hold and maintain the ChargeSmart EV Information in strict confidence for the sole and exclusive benefit of ChargeSmart EV. Site Owner shall restrict access to any ChargeSmart EV Information to Site Owner's employees and agents. Site Owner shall not, without prior written consent of ChargeSmart EV, use, publish, copy or otherwise disclose to others any ChargeSmart EV Information for Site Owner's own benefit, nor shall Site Owner permit the use of ChargeSmart EV Information by others for their benefit or the detriment of ChargeSmart EV. Upon termination of this Agreement, Site Owner will destroy or return to ChargeSmart EV all records, notes, documentation and other written or tangible materials that were used or controlled by Site Owner during the term of this Agreement. The nondisclosure and confidentiality provisions of this Section and otherwise in this Agreement shall survive the termination or cancelation of this Agreement.

7. Fees and Billing.

- 7.1 Fees: The Site Owner agrees that ChargeSmart EV shall be paid applicable fees from the usage fees collected, and that ChargeSmart EV will be paid a percentage of net amounts collected as provided for in the attached Section A. The Network Fee (as defined below in Section A), which may be broken down and billed per charging port at the discretion of ChargeSmart EV, will be billed to the Site Owner annually or at ChargeSmart EV's reasonable discretion.

- 7.2 Payment of Revenue due to ChargeSmart EV: Payments of usage fees collected by ChargeSmart EV, net of any applicable fees, and Site Owner's share of revenues collected as defined in Section A will be made quarterly throughout the calendar year, and will be due by the 30th day of the following month of the close of each quarter (Quarter 1 being January 1st through March 31st, Quarter 2 being April 1st through June 30th, Quarter 3 being July 1st through September 30th, and Quarter 4 being October 1st through December 31st).
- 7.3 When the charger is set to "Free Ven" mode (Free Charging to the Driver) based on the SITE OWNER's request, the SITE OWNER shall still pay us the Network Fee, for per charging port monitoring and other services, and the SIM card charges as listed in Section A.

8. Services

- 8.1 ChargeSmart EV provides for the following services, (subject to payment of the appropriate Port monitoring fees):
 - 8.1.1 ChargeSmart EV Charging Network monitoring of EV chargers and the EVSE Units
 - 8.1.2 ChargeSmart EV management services (Including 24 X 7 driver support)
 - 8.1.3 Access to the ChargeSmart EV management portal
 - 8.1.4 EVSE Units owner support
 - 8.1.5 Cellular data service, if applicable

9. Default. The occurrence of any of the following shall constitute an Event of Default under this Agreement:

- 9.1 The failure of Site Owner to make any required payment when due and payable pursuant to the terms of this Agreement and any related agreement between Site Owner and ChargeSmart EV or any of its affiliates or related parties.
- 9.2 The insolvency or bankruptcy of Site Owner.
- 9.3 If Site Owner shall close its business or the EVSE Units shall not be powered or electrified for a period of at least [30] days at any time during any Term of this Agreement.
- 9.4 The failure of Site Owner to fully cooperate with ChargeSmart EV pursuant to the terms of this Agreement.
- 9.5 Any other material breach by Site Owner of the express terms of this Agreement, including the failure to substantially perform any provision, term, obligation or condition hereof.

10. Remedies. In addition to any and all other rights a party may have available according to law, if an Event of Default occurs under this Agreement or otherwise as provided for herein, the non-defaulting party may terminate the Agreement by providing written notice to the defaulting party. The defaulting party shall have ten (10) days from the effective date of such notice to cure the default. Unless an express waiver is given in writing by the non-defaulting party, a failure to cure the default within the cure period shall result in the automatic termination of this Agreement. Upon such automatic termination, the non-defaulting party may (at its sole option and discretion and with no obligation to do so) revive the Agreement within ten (10) days of such automatic termination without waiving any additional rights afforded to the non-defaulting party herein. Notwithstanding anything to the contrary herein, if an Event of Default occurs under Section 9.1 herein, or for any non-payment of fees due pursuant to this Agreement, ChargeSmart EV reserves the right to collect 100% of any continuing revenue created by the EVSE Units until any and all Network Fees (as defined in Section A attached hereto) or other costs are fully recouped by ChargeSmart EV.

11. Limitations on Responsibility.

- 11.1 ChargeSmart EV shall not be responsible for, and makes no representation or warranty with respect to the following:
 - 11.1.1 Continuous availability of electrical service to any EVSE Unit;
 - 11.1.2 Continuous availability of any wireless or cellular communications network or Internet service provider network necessary for the continued operation by ChargeSmart EV of the ChargeSmart EV Charging Network;
 - 11.1.3 Availability of or interruption of the ChargeSmart EV Charging Network attributable to unauthorized intrusions by bad actors or otherwise; and/or
 - 11.1.4 EVSE Units that are not registered with and/or not activated on the ChargeSmart EV Charging Network.
- 11.2 Site Owner agrees to indemnify, defend and hold ChargeSmart EV and its employees, agents, representatives or Subcontractors (collectively, the "Indemnified Parties") harmless from all claims, losses, expenses, fees including attorney fees, costs, and judgments that may be asserted against Site Owner that may result from any of the items 9.1.1 through 9.1.4 above or acts, omissions or negligence of the Indemnified Parties, or that may result from the Indemnified Parties' reasonable reliance on incorrect or incomplete information or data obtained from or provided by any state or municipal department or agent therefor. Further, Site Owner agrees to indemnify, defend and hold harmless the Indemnified Parties from and against any loss, cost or damage of any kind (including reasonable attorneys' fees) to the extent arising out of (i) Site Owner's default, breach of this Agreement and/or Site Owner's negligence or willful misconduct, (ii) Site Owner's delivery to ChargeSmart EV or any of the Indemnified Parties of incorrect or incomplete information or data, or Site Owner's omission of certain pertinent information which Site Owner should have delivered to ChargeSmart EV or any of the Indemnified Parties in the normal course of business.

12. Relationship. Nothing contained in this Agreement shall be deemed to constitute either Party as a partner, joint venturer or employee of the other Party for any purpose.

13. Subcontractors. Site Owner understands that, from time to time, ChargeSmart EV may request or require the assistance of third-parties to perform certain of ChargeSmart EV's duties and obligations under this Agreement. Site Owner hereby consents to the utilization by ChargeSmart EV of subcontractors, agents or other third-parties (the "Subcontractors"). ChargeSmart EV shall provide Site Owner with notice of ChargeSmart EV's intent to utilize Subcontractors prior to engaging any Subcontractors with regard to the work to be performed pursuant to this Agreement.
14. Assignment. Neither Party may assign or transfer this Agreement without the prior written consent of the non-assigning Party, which approval shall not be unreasonably withheld.
15. ChargeSmart EV support team will coordinate with the EVSE Unit manufacturer for part replacements if and only if the EVSE Unit needing repair is under a qualified warranty, and such warranty has not been made void or canceled due to misconduct, damage or mishandling of such EVSE Unit.
16. Amendment. This Agreement may be modified or amended in writing by mutual agreement between the Parties. Such amendment or modification must be signed by both Parties to be effective.
17. Severability. If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable.
18. Governing Law. This Agreement shall be construed in accordance with the laws of the State of New York.
19. Notice. Any notice or communication required or permitted under this Agreement shall be sufficiently given and considered effective if delivered in person, overnight courier or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing. Any notice shall be deemed effective on the earliest to occur of (i) the date when the notice is received by the addressee; (ii) the first business day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next business day delivery; or (iii) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested.
20. Cooperation. Site Owner agrees to cooperate fully and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement, including but not limited to, the execution of any further documents necessary to fully resolve any matter or achieve any result contemplated by the relationship between ChargeSmart EV and Site Owner and the terms of this Agreement.
21. In any action arising hereunder or any separate action pertaining to the validity of this Agreement, if ChargeSmart EV is the prevailing party, ChargeSmart EV shall be awarded reasonable attorney's fees and costs to paid by Site Owner, with regard to actions both in trial court and on appeal.
22. Construction and Interpretation. The rule requiring construction or interpretation against the drafter is waived. This Agreement shall be deemed as if it were drafted by both Parties in a mutual effort.
23. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

Signatures:

Site Owner: Andrew Viera LLC
 Signed by: _____
 By: *Andrew Follman*
 E49EFCF107B54F1...
 Name: Andrew Follman
 Manager
 Title: _____

ChargeSmart EV
 By: *Salvatore Valle*
 Name: Salvatore Valle
 Title: Managing Member

**SECTION A
BILLING AND FEES**

1. Definitions.

- 1.1 "Network Fee" means the fee payable by the Site Owner monthly based upon the Commencement Date of this agreement for the operation of the Site Owner's EVSE Units on the ChargeSmart EV Charging Network. The Network Fee is US \$ 162.50 per charging port per year. These fees are payable regardless of charger charging Session Usage Fees, or Processing fees.
- 1.2 "Charging Session" means a session during which an EV driver uses the Site Owner's EVSE Unit to charge an EV for a continuous period of time, starting when the EV driver accesses the Site Owner's EVSE Unit and ending when the EV driver has terminated such access.
- 1.3 "Session Usage Fees" means the fees set by the Site Owner or ChargeSmart EV for a Charging Session, inclusive of any applicable taxes. Site Owner will set the Session Usage Fees for the EVSE Units. Session Usage Fees shall comply with all applicable laws and regulations (including without limitation any restriction on the use of per-kWh pricing).
- 1.4 "Session Authorization and Processing Fees" means the fees that will be deducted from the Session Usage Fees by ChargeSmart EV to pre-authorize a Charging Session and collect final Session Usage Fees payable for a Charging Session at the Site Owner's EVSE Unit. ChargeSmart EV charges 9 % Credit Card and Payment Processing fee. ChargeSmart EV reserves the right to charge the driver a transaction fee of \$0.49 per transaction.
- 1.5 "Net Usage Fees" means the total amount of Session Usage Fees collected by ChargeSmart EV for a Charging Session, less Session Authorization and Processing Fees, from EV drivers in connection with the use of EVSE Units. Except as required by law, the Site Owner shall be responsible for the payment of all Taxes incurred from revenue generated in connection with the use of the Site Owner's EVSE Units. Customer will Receive 75 % of Net Usage Fees.

2. Process.

- End User (EV driver) initiates a Charging Session and will pay Charging Usage Fee via ChargeSmart EV virtual wallet.
- ChargeSmart EV will authorize the EV Driver and start charging vehicle.
- ChargeSmart EV will pay EVSE Units owner Net Usage Fees on 30th day of the following month of the close of each quarter.
- EVSE Units owner Net Usage Fees will be Total Collected Usage Fee, minus Charging fee and Session fee as charged by ChargeSmart EV.

3. Billing Cycle.

- 3.1 Network Fee means the fee payable by the Site Owner monthly based upon the Activation Date of this agreement for the operation of the Site Owner's EVSE Units on the ChargeSmart EV Network.
- 3.2 The Network Fee is US \$ 162.50 per charging port per year. These fees are payable regardless of charger charging Session Usage Fees, or Processing fees.
- 3.3 ChargeSmart EV will directly debit the network fees from the Site Owner's bank account, based on the billing terms noted below.

BILLING TERMS:

_____ Year(s) of Network Fees Included in Original Project Cost

Yearly ACH (Per Port) - # of Ports _____ x Annual Network Fee \$ _____ = \$ _____ Per Year

Billing Start Date: _____ Term (Years): _____

5 Year Network Fee Paid in Full (all ports, paid in full upfront for 5 total years from commencement/activation date)

SECTION B

Site Owner Provisioning & Banking Information

Owner Organization Name: Andrew Viera LLC
Site Name: Geneseo Self Storage
EVSE Location: Parking lot
Site Address: 112 Riverside Drive Geneseo, NY 14454
Parking Price (\$/kWh): 0.55
Contact Name: Andrew Follman
Contact Email: andrewjfollman@gmail.com
Contact Phone #: 585-590-0925

Bank Name: Canadaigua National Bank & Trust
Bank Address: 4765 Lake Rd S, Brockport, NY 14420
Account Holder Name: Andrew Follman
Account Number: 1109750020
Routing Number: 022303659
Account Type: Geneseo Self Storage LLC Business Account
Organization Accounting Point of Contact: Lindsey Mohr 585-953-1238
Organization Accounting Email: lmohr@cnbank.com

Company Name: ChargeSmart EV
Contact Name: Salvatore Valle
Contact Email: sal@ChargeSmartEV.com