

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT (this “Agreement”), is dated as of {day, month}, 2017 (the “Effective Date”), by and between C40 CITIES CLIMATE LEADERSHIP GROUP INC., a Delaware non-profit corporation (“Company”), and {service provider name}, having its principal place of business at {business address} (“Service Provider”).

RECITAL

Company desires to engage the services of Service Provider, and Service Provider desires to render such services to Company, in accordance with the terms and conditions set forth below.

NOW THEREFORE, in consideration of the covenants and agreements set forth herein, and for other consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Service Provider Services. During the Term (as defined below), Service Provider shall provide services and/or advice to Company as set forth on Statement(s) of Work (the “Services”), including Statement of Work No. 1, attached hereto as Exhibit A. The Services shall be performed by employees under the control of the Service Provider. Service Provider shall cause its employees or agents performing the Services hereunder to use their best efforts in connection with the performance of such Services. All employees or agents of Service Provider performing any portion of the Services shall be subject to background searches as may be required by Company.

2. Term. The term of this Agreement (“Term”) shall commence on the Effective Date and shall terminate upon completion of the Services, unless extended by Company in writing or earlier terminated in accordance with the provisions of Section 3.

3. Termination. The engagement of Service Provider may be terminated at any time by Company upon notice to Service Provider. Following termination, Company’s only obligation to Service Provider shall be to pay Service Provider in accordance with the provisions of Section 8 the fees accrued for the Services rendered by Service Provider hereunder to the date such termination is effective.

4. Confidentiality.

(a) Service Provider hereby covenants and agrees that it shall keep strictly confidential all information that it presently possesses, has obtained or may obtain in connection with the Services with respect to trade secrets, private or confidential information or other confidential affairs of Company, C40 Cities Climate Leadership Group Inc. and/or its and their respective member(s), owner(s), associates and related entities, including, without limitation, information, photographs or video, conversations, operations, computer hardware and software, systems, databases, methods, concepts, data, equipment, compensation figures, suppliers, lists, advertising, technical processes and applications and other business affairs and methods, plans, details or information as to Company, C40 Cities Climate Leadership Group Inc. and/or its and their respective member(s), owner(s), associates and related entities, its or their personnel, and other information in connection with Company not readily available to the public (collectively, “Confidential Information”). For the avoidance of doubt, “Confidential Information” shall include the existence of this Agreement, the terms hereof, any and all information or communications marked “confidential” by Company and any and all information or communications regarding the Services.

(b) Without limiting Service Provider’s obligations under Section 4(a), Service Provider shall use at least the same care and discretion to safeguard and avoid the disclosure, publication or dissemination of the Confidential Information as it uses with its own information that it does not wish to disclose, publish or disseminate. Without the prior written consent of Company, Service Provider shall not disclose to any third party the Confidential Information or the fact that the Confidential Information has been made available by Company; *provided, however*, that Service Provider may disclose Confidential Information to its employees who are providing the Services hereunder to the extent that such employees have a need to know such information. Service Provider shall procure the agreement of such employees to adhere to the obligations set forth in this Section 4, and Service Provider shall be responsible for any breach thereof by such employees. For the avoidance of doubt, Service Provider shall not

refer to Company in any marketing, advertising, press releases or public statements without Company's prior written consent.

(c) If Service Provider is required pursuant to legal process to disclose any Confidential Information, it shall promptly so notify Company, in order to permit Company to seek a protective order or take other appropriate action. Service Provider shall cooperate in Company's efforts to obtain a protective order or other reasonable assurance that confidential treatment will be accorded the Confidential Information. If, in the absence of a protective order, Service Provider is, in the written opinion of its counsel addressed to Company, compelled as a matter of law to disclose the Confidential Information, Service Provider may disclose to the party compelling disclosure only that part of the Confidential Information required by law to be disclosed.

(d) Service Provider shall promptly notify Company in writing if any information comes to its attention, which information may indicate there was or is likely to be a loss of confidentiality of any portion of Confidential Information. Service Provider shall use reasonable efforts to retrieve the lost or wrongfully disclosed Confidential Information and to prevent further unauthorized disclosure or loss of any Confidential Information.

(e) Any Confidential Information furnished to Service Provider by anyone acting on behalf of Company and any memoranda, presentations, analyses, studies, drawings, compilations or other documents prepared by Service Provider for purposes hereof shall be deemed to be Confidential Information subject to the terms hereof. Service Provider shall keep a record of the Confidential Information furnished to, or prepared by, it and of the location of such Confidential Information.

(f) At either the written request of Company, or upon the termination of this Agreement, Service Provider shall immediately return to Company (i) all copies of all written Confidential Information which has been provided to Service Provider including, but not limited to, written summaries of any oral Confidential Information provided by Company, and (ii) all copies of memoranda, presentations, analyses, studies, drawings, compilations or other documents prepared by Service Provider in connection with the Services. Notwithstanding the foregoing, Service Provider may retain copies of any Confidential Information in routine back-up of electronic data processing systems. Service Provider's obligations under this Agreement shall survive any return or destruction of the Confidential Information.

(g) Notwithstanding the foregoing, it is understood that when known or available in the public domain, through no act or failure to act by Service Provider, or if previously and lawfully known to Service Provider or if subsequently lawfully acquired by Service Provider from third parties not under any obligation of confidentiality or secrecy to Company, such information shall not be deemed to be Confidential Information subject hereto.

5. Ownership.

(a) Service Provider acknowledges and agrees that any ideas, concepts, creations, discussions, plans, inventions, discoveries, processes, writings, art work, designs, drawings, computer programs, source code, object code, code/software documentation, original works of authorship and any other work product of any nature whatsoever prepared or produced in connection with the Services (collectively and together with any improvements or derivative works thereof, the "Works"), are done under Company's direction and control and have been specifically ordered and commissioned by Company. Service Provider further acknowledges and agrees that the Works hereunder, and all materials contained therein or prepared therefor, shall be deemed to be Work Made For Hire on behalf of Company as such term is defined under the copyright laws of the United States, and that Company shall be the sole owner of the Works, and all underlying rights therein, worldwide and in perpetuity.

(b) In the event that the Works, or any portion thereof, do not qualify or are deemed not to be Work Made For Hire, Service Provider hereby irrevocably grants, transfers and assigns any and all right, title and interest in and to the Works and all materials contained therein or prepared therefor, and any improvements thereon, including all intellectual property rights, including, but not limited to, any and all rights that may exist from time to time in this or any other jurisdiction whether foreign or domestic, under patent law, copyright law, publicity rights law, moral law, trade secret law, semiconductor chip law, trademark law, unfair competition law, or other similar protections regardless of whether or not such rights or protections are registered or perfected ("IP Rights"). Service

Provider shall cooperate fully with Company and shall execute such further documentation as Company may request in order to establish, secure, maintain or protect Company's ownership of the Works and/or any IP Rights therein. Furthermore, Service Provider agrees that it shall never transfer, license or assign the Works and/or any IP Rights therein to any third party, nor purport to do the same, nor contest Company's exclusive, complete and unrestricted ownership in and to the Works and/or any IP Rights therein, nor claim adverse rights therein. In addition to the foregoing, Service Provider acknowledges that it shall not be entitled to any compensation beyond that specifically provided herein for any of the Works and/or any IP Rights therein.

(c) Upon the termination hereof, Service Provider shall immediately deliver to Company in understandable and organized form, all Works and works-in-progress, and shall, at no extra charge, make its employees available to, and cooperate with, Company's designees in connection with the transition of Service Provider's work.

6. Non-Disparagement and Non-Disclosure. Service Provider recognizes and agrees that as a result of its engagement by Company, it is assuming a position of confidence and trust and as such shall not in any way defame, disparage, libel or slander Company, C40 Cities Climate Leadership Group Inc. and/or its and their respective member(s), owner(s), associates and related entities, and shall not, during the Term or thereafter, contact, respond to any request from, or in any way discuss Company, C40 Cities Climate Leadership Group Inc. and/or its and their respective member(s), owner(s), associates or related entities with any news provider or other media (print, television or otherwise).

7. Non-Solicit. During the Term, Service Provider shall not, alone or with others, solicit, induce, influence, or attempt to solicit, induce or influence (i) any employee, officer, volunteer, associate, agent, consultant or independent contractor of Company to discontinue his or her employment or other business arrangements with Company; or (ii) any former, present or future vendor or party with a business relationship with Company to reduce or discontinue any business relationship with Company, to refrain from entering into any new business relationship with Company, or to otherwise adversely modify its relationship with Company.

8. Fees. Service Provider shall invoice Company for the Services as provided in the Statement(s) of Work. Each such invoice shall be payable to Service Provider within thirty (30) days of its receipt by Company. Invoices shall be addressed to C40 Cities Climate Leadership Group Inc., 120 Park Avenue, Floor 23, New York, NY 10017 USA with attention to C40 Finance and be delivered via electronic mail to: finance@c40.org ; *provided*, that if it is impracticable for Service Provider to deliver invoices via electronic mail, invoices may be mailed by post to the following address: C40 Cities Climate Leadership Group Inc., 120 Park Avenue, Floor 23, New York, NY 10017 USA with attention to C40 Finance.

9. Representations, Warranties and Covenants. Service Provider represents, warrants and covenants that: (a) it has and shall maintain during the term of this Agreement the proper licenses and rights to perform the Services; (b) it shall diligently and timely provide the Services in a professional and workmanlike manner in accordance with the highest industry standards; (c) it is in compliance with all applicable local, city, state, federal and international laws, rules and regulations including, but not limited to, all environmental, safety and health and labor and employment (including those addressing discrimination, harassment and retaliation) laws, rules and regulations, and shall remain in compliance during the term of this Agreement; (d) it is in compliance with all applicable affirmative action laws and regulations, including but not limited to Executive Order 11246, the Vietnam Era Veteran's Readjustment Act of 1974, the Jobs for Veterans Act of 2003, and Section 503 of the Rehabilitation Act of 1973; (e) it has established adequate safety standards and protocols and that employees, contractors, agents or other personnel performing Services on Service Provider's behalf (collectively, "Personnel") shall follow such standards and protocols and be in compliance with the Occupational Safety and Health Administration Act ("OSHA"); (f) it shall instruct its Personnel in any safety standards and protocols promulgated by Company, or the management of a facility occupied by Company, and that its Personnel shall follow such standards and protocols; (g) the Personnel shall have the necessary experience, qualifications, knowledge, competency and skill set necessary to perform the Services pursuant to this Agreement; (h) the Personnel are approved and authorized to work in the United States under all rules and regulations of the Immigration and Naturalization Service of the United States, if applicable, and (i) neither the Works nor any other materials provided or licensed to Company hereunder are defamatory or infringe, misappropriate or violate the patents, copyrights, trademarks, trade secrets, database rights, privacy rights, publicity rights, or any other intellectual property or proprietary rights of any third party, and Service

Provider has all rights and licenses necessary to grant all rights and licenses granted or assigned herein. At any time, Company may request Service Provider to present copies of Service Provider's programs, policies and/or documentation as to any training provided by Service Provider to its Personnel including, but not limited to, OSHA-related training.

10. Limited Liability. Recourse hereunder against Company shall be limited to the fees earned by and payable to Service Provider pursuant to Section 8, and in no event shall include consequential, special or indirect damages or claims for loss of profit or business. No individual member, officer, official, employee, volunteer, agent or affiliate of Company or C40 Cities Climate Leadership Group Inc. shall be personally liable hereunder, and no recourse shall be held against any such party's assets by reason of a breach of this Agreement by Company or otherwise.

11. Indemnity; Insurance.

(a) Service Provider shall indemnify, protect, defend and hold harmless Company, C40 Cities Climate Leadership Group Inc. and its and their respective affiliates, members, employees, volunteers, consultants, agents and contractors (collectively, "Indemnitees") from and against any and all liability, claims, suits, demands, damages, judgments, costs, fines, penalties, interest and expenses (including reasonable counsel and other professional fees and disbursements incurred in any action or proceeding), to which the Indemnitees may be subject or suffer arising from, or in connection with, Service Provider's breach of this Agreement, the negligence or willful misconduct of Service Provider or any of its agents, contractors, subcontractors, servants or employees, any negligent errors or omissions in the performance by Service Provider of the Services, or which otherwise arise by, through or under Service Provider.

(b) Service Provider covenants to maintain a workers compensation insurance policy (with employer's liability coverage), umbrella liability policy, professional liability policy, automobile liability policy, if applicable, and commercial general liability policy, each in form and substance reasonably satisfactory to Company and with coverage limits that would be maintained by a prudent party in Service Provider's industry performing work similar to the Services. Service Provider shall cause Company (with the following address: 120 Park Avenue, Floor 23, New York, NY 10017 USA with Attention to: C40 Legal) (and any other party that Company may reasonably request) to be named as an additional insured under the commercial general liability policy and, upon Company's request, shall provide Company with certificates evidencing such policies. Each such policy shall have a waiver of any right of subrogation against Company, and shall obligate the insurer to provide and pay the costs of defense of the additional insureds on a primary basis without regard to any other potentially applicable insurance available to the additional insureds.

12. Injunctive Relief. The parties acknowledge that in the event of a breach or a threatened breach by Service Provider of its obligations of confidentiality under Section 4 of this Agreement, Company will not have an adequate remedy at law alone. Accordingly, in the event of any such breach or threatened breach by Service Provider, in addition to damages and any other remedies provided by law, Company shall be entitled to specific performance, or otherwise to such equitable and injunctive relief as may be available to restrain Service Provider (or any business, firm, partnership, individual, corporation or entity participating in such breach or threatened breach) from the violation of the provisions hereof. Nothing herein shall be construed as prohibiting Company from pursuing any other remedies available at law or in equity for such breach or threatened breach. In addition, in the event of any violation of this Agreement, Service Provider shall reimburse Company for all costs and expenses, including reasonable attorneys' fees, incurred in order to enforce the provisions of this Agreement or exercise any remedies for a violation thereof.

13. Notices. All notices pursuant to this Agreement shall be in writing, shall either be delivered by electronic mail, by hand or mailed by certified or registered mail, return receipt requested, postage prepaid (i) to Service Provider, to the email address and/ or the address set forth on the Payment Information Form (PIF) or (ii) if to Company, to the email address, legal@c40.org or C40 Cities Climate Leadership Group Inc., 120 Park Avenue, Floor 23, New York, NY 10017 USA, Attention: C40 Legal (or to such other addresses as either party may designate for such purpose in written notice) and shall be effective upon receipt when delivered by electronic mail or hand or on the third business day after the day on which mailed.

14. Miscellaneous.

(a) Service Provider may not enter into subcontracts with respect to the Services or otherwise assign or delegate its obligations hereunder without Company's prior written consent in each instance. If Company so approves any subcontractors with respect to the Services, Service Provider shall promptly, upon Company's request, provide to Company all information that Company may reasonably request with respect to each such subcontractor. Service Provider shall ensure all such approved subcontractors' compliance with the terms of this Agreement.

(b) To the extent the service relationship between Company and Service Provider commenced prior to the execution of this Agreement, the provisions of Sections 4 and 5 shall apply retroactively from the start of such consultancy. The provisions of Sections 4, 5, 6, 9, 10, 11, 12, 13 and 14 shall survive the termination of this Agreement and the termination of the consultancy.

(c) Nothing in this Agreement shall be deemed to create a joint venture, franchise, partnership, employer-employee relationship or principal-agent relationship between Company and Service Provider.

(d) This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and no modification or waiver of any provision hereof shall be binding upon any party unless in writing and signed by the parties hereto. No waiver or modification shall be deemed to be a subsequent waiver or modification of the same or any other term, covenant or condition in this Agreement. No failure or delay in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power, or privilege hereunder.

(e) The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

(f) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted assigns, heirs, executors and administrators.

(g) This Agreement may not be assigned, in whole or in part, by Service Provider without the prior written consent of Company (any purported assignment hereof in violation of this provision being null and void). Company shall have the right to assign this Agreement at any time on notice to Service Provider.

(h) This Agreement may be executed in various counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(i) The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Section, subsection, recital and party references are to this Agreement unless otherwise specified.

(j) The rights and remedies provided for hereunder are cumulative and are not exclusive of any rights and remedies that may be available to any party under applicable law, in equity, or otherwise.

(k) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO ITS CONFLICT OF LAWS PRINCIPLES. COMPANY AND SERVICE PROVIDER HEREBY IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED IN NEW YORK COUNTY, NEW YORK, FOR PURPOSES OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, AND EACH IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(l) This Agreement, including any schedules, amendments, modifications, waivers, or notifications relating thereto may be executed and delivered by electronic mail or other electronic means. Any such electronic mail transmission or communication via such electronic means shall constitute the final agreement of the parties and conclusive proof of such agreement, and shall be deemed to be in writing and to have the same effect as if signed manually. Each party agrees that it has the ability to store the information delivered electronically such that the information remains accessible to it in an unchanged form.

(m) This Agreement shall be effective only when executed by Company and Service Provider.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

C40 CITIES CLIMATE LEADERSHIP GROUP INC.

By: _____
Name:
Title:

{service provider name}

By: _____
Name: {authorized signer name}
Title: {title of authorized signer}

**STATEMENT OF WORK NO. 1
to Service Provider Agreement**

1. Scope of Work

{ a detailed explanation of services to be provided }

2. Term

{ time frame of service with an end date }

3. Fees

{ Service Provider's pay rate; examples include: X amount per hour, X amount per month, X amount for service provided }

4. Payment Schedule

{ how the Service Provider would like to be paid; examples include: quarterly payments, one time payment, monthly payment *note: C40 does not pay more than once per month }

5. C40 Staff Point of Contact:

{ name }

{ email }