

AMERICAN CENTER FOR MOBILITY USER ACCESS AND SERVICES AGREEMENT

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the User) and the AMERICAN CENTER FOR MOBILITY (ACM) providing the services contemplated therein. Each of ACM and User may be referred to herein individually as a "Party" and collectively as the "Parties".

ACM is a connected and automated vehicle research, education, testing, standards-convening, product development, validation and self-certification facility located in Ypsilanti Township, Michigan (collectively, the "**Facility**").

User desires use of some or all of the Facility for purposes of testing connected and autonomous vehicles and related technologies.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. **Access.**

- 1.1 **Access.** Subject to the terms of this Agreement, ACM agrees to provide User with shared or exclusive access, as the case may be, to the Facility for the sole and exclusive purpose of general vehicle or technology testing (the "**Access**").
- 1.2 **Access Hours.** User's testing hours and locations must be scheduled and approved in advance and in writing by ACM's designees. Requests for Access beyond the standard hours of 8 a.m. to 5 p.m., U.S. Eastern Time, Monday thru Friday may be approved on a case-by-case basis. User will be responsible for the Fees for Access for any reserved session regardless of whether User uses the Facility during the scheduled session. Approved test hours and the surfaces available for Access may vary from test to test based on scheduled events.
- 1.3 **Scheduling.** User must submit all requests for Access on forms provided by ACM. ACM will endeavor to promptly process all requests. Unless otherwise agreed by ACM, ACM will not approve requests for Access or ACM Services more than one (1) month in advance. However, in the sole discretion of the ACM, requests for Access made more than a month in advance may be approved in whole or in part, subject to conditions as may be required by the ACM to allow flexibility for operations of the Facility. ACM shall make reasonable efforts to meet User's timing requests for Access. ACM may delay or refuse provision of Access for any reason. User's sole remedy for any delay or refusal to provide Access is the refund of any prepaid Fees (as defined below).
- 1.4 **No Property Right.** Notwithstanding any Access provided by ACM under this Agreement, User certifies, represents, warrants, and agrees that User (i) has no right, title or interest in or to the Facility or to any portion of Facility and (ii) has not, does not, and will not claim any ownership, tenancy, easement, license or any other property right, however characterized, in, to, on or over the Facility. User agrees that User's right to Access and any rights to the Facility are solely and exclusively set forth in this Agreement and User waives all rights at law, in equity, or statutory to have any greater rights in and to the Facility.

2. **Fees.**

- 2.1 **Fees and Payment.** The fees for Access and ACM Services are set forth in ACM's cost quotation hereto (the "**Fees**"). Unless otherwise agreed, user will pay all Fees to ACM, without setoff, recoupment, or deduction of any kind, in United States Dollars, and within thirty (30) days after receipt of an invoice received from ACM. User shall be liable to pay for scheduled Access whether or not used, unless the Access is cancelled by ACM. If ACM is notified by the User at least two business days in advance that User is cancelling an Access session, ACM will make reasonable efforts to schedule another paying Facility user who will use the cancelled session and if scheduled, reduce User's obligation to ACM on a pro-rata basis. The amount to be paid by User does not include any sales, use, value-added, excise or other taxes or duties, all of which are User's sole responsibility. To the extent that ACM incurs any such taxes or duties arising out of User's activities, User shall immediately pay the imposed tax. If ACM has already paid the tax, User will immediately reimburse ACM for the tax plus 10%.
- 2.2 **Additional Fees for Additional ACM Services.** In the event that User requests additional services not part of the ACM Services and ACM is willing and able to provide any such additional service, the Parties shall mutually agree upon an acceptable fee for such additional service prior to creating any obligation to provide or pay for such additional service. Cost for additional services may be posted on site at the Facility, and if the cost for the service requested by User is posted on site, the posted cost will be fee payable. All such additional services will be treated as ACM Services and any additional fees will be treated as Fees, in each case, for purposes of this Agreement.

3. **User Testing and Equipment.**

- 3.1 **User Testing.** Unless provided by ACM as ACM Services (as defined below), User will develop its own testing plans and provide qualified drivers, fuel, oil, engineering, and garage services for User's vehicles ("**User Provided Resources**"). User agrees that neither ACM nor any employee, subcontractor, or agent of ACM will be responsible for or liable to User for any User Provided Resource and User is provided all User Provided Resources at its sole risk and expense. All User test plans are subject to a safety review by ACM personnel. Risk mitigation measures dictated by ACM personnel may include, but are not limited to, requiring the sole use of the test environment to be followed in order to use the Facility.
- 3.2 **Testing Equipment.** Unless provided by ACM as part of the ACM Services, User must bring and use its own equipment, including, without limitation, scientific measuring, testing equipment, and test vehicles ("**Testing Equipment**").
- 3.3 **Storage.** If appropriate space is available, User's Testing Equipment and User's other personal property required for testing (collectively, "**User Equipment**") may be stored overnight, at User's sole risk and expense, at locations on the Facility designated by ACM for use by User, including storage spaces or garages at the Facility (each, a "**User Temporary Storage**"). User must make a written request for User Temporary Storage to ACM and all requests for User Temporary Storage are subject to ACM review and written approval. If User Temporary Storage is approved, User will be charged the applicable Fees therefor.
- 3.4 **ACM Equipment.** To the extent available, User may request to use Testing Equipment owned by ACM or an ACM Contractor (as defined below) ("**ACM Equipment**") for testing as well additional support by Facility personnel. All use of the ACM Equipment as well as additional support (i) must be requested in advance by User to ACM's designated representatives, and (ii) will be subject to the applicable Fees. Prior to using or accepting any ACM Equipment, User must inspect the ACM Equipment and satisfy itself that the ACM Equipment is safe and suitable for User's purposes. User's use of the ACM Equipment will constitute User's acknowledgement that the ACM Equipment is safe and suitable for User's purpose.

3.5 Loss/Damage. User bears all responsibility for loss of or damage to (i) any User Equipment on the Facility (whether in or outside of a User Temporary Storage) regardless of cause and (ii) ACM Equipment during User's use of the ACM Equipment. User will be responsible for adequately insuring User Equipment against loss or damage, with the adequacy of such insurance determined in User's sole discretion. User assumes all risks of dangerous conditions, if any, associated with the Access or any ACM Services provided on the Facility. ACM will have no liability to any person or entity (including User) for any loss or damage to User Equipment caused by third parties. If ACM determines that User's testing procedures could involve a safety risk to the individual performing the testing, ACM reserves the right to prohibit such procedures or require involved individuals to sign individual liability waivers in favor of ACM when testing on the Facility.

4. **User Obligations and Restrictions.**

4.1 Obligations. User will, in all cases, comply with submitted and approved test plans. Users will follow ACM safety protocols and risk mitigation steps resulting from ACM's test plan review.

4.2 Access Restrictions. During the Term, User will:

- (a) use the Facility only as allowed under this Agreement;
- (b) comply with all safety, operational, and security guidelines applicable to the Facility;
- (c) keep the User Temporary Storage area, safe, clean and proper condition;
- (d) keep the Facility safe, clean and proper condition;
- (e) make no alterations to the Facility, without the prior written consent of ACM, except minor alterations such as moving the location of moveable signs or other roadside fixtures may be made after oral consent of ACM; and
- (f) reimburse ACM its reasonable costs for all repairs and replacements (including structural) resulting from any damage to any part of the Facility arising out of User's use thereof or other acts or omissions.

4.3 Conduct of User. In addition to the above, User agrees that it will conduct all activities, operations, or work performed by the User, its agents, employees, contractors and invitees on and about the Facility so as not to interfere with or inconvenience ACM or other users of the Facility. ACM will have the right, in its sole discretion, to direct User to stop any testing that ACM, in its reasonable judgement, finds is causing or could cause unnecessary danger to the Facility, ACM's other users, employees, agents, contractors and invitees and other persons located on the Facility. Severe testing, such as limit handling, is not permitted.

4.4 Training. User will comply with any training requirements applicable to the Access and ACM Services. All drivers and safety operators provided by User to conduct testing at the Facility shall complete ACM's safety training program (the "**Safety Training Program**"), consisting of a classroom track safety orientation, quiz, and track tour. If a vehicle will be driven by an individual, such individual must hold a valid motor vehicle operation license issued by an authorized state, federal or international jurisdiction. ACM will have the right, in its sole discretion, to direct User to stop any testing that ACM in its reasonable judgement finds is causing or could cause unnecessary danger to the Facility, ACM's other users, ACM's subcontractors, or other persons located at the Facility. ACM shall have the right to exclude any individual driver in ACM's sole discretion. User agrees that the Safety Training Program is provided "as-is" and that neither the Safety Training Program nor ACM's permission for a driver to operate shall increase ACM's liability under this Agreement.

- 4.5 Use of Names. User shall not state or imply in any publication, advertisement or other medium that the test results, or any product or service bearing any of the User's or User's customers' names or trademarks has been approved or endorsed by ACM. User shall not use the name of ACM or any ACM employee or agent or make reference to the Access or ACM Services in any publicity without the prior written approval of ACM. Unless otherwise addressed in a Contribution Agreement, ACM will not use the name of User in any publicity without the prior written approval of User.
- 4.6 Insurance. During the Term, User must comply with the insurance requirements set forth in Exhibit
- 4.7 A attached hereto.
- 4.8 Compliance with Laws and Environmental Requirements. At all times while on the Facility, User shall comply with all laws, ordinances, rules and regulations applicable to the Facility or the User's activities on the Facility, including, without limitation, any ACM rules, regulations, policies or procedures. In addition, User must comply with ACM's environmental requirements for the Facility set forth in Exhibit B attached hereto ("**Environmental Requirements**")

5. ACM Services and Operation of the Facility.

- 5.1 ACM Services. Subject to the terms, conditions, and limitations set forth in this Agreement, ACM agrees to provide or make available to User the services set forth in ACM's cost quotation (collectively, "**ACM Services**"). To maximize availability of ACM Services to User when needed, User must request ACM Services through ACM's at least two days in advance of the date the ACM Services are needed. ACM does not guarantee the availability of the ACM Services.
- 5.2 ACM Contractors. User agrees that ACM may discharge all or any part of its obligations under this Agreement relating to the operation, maintenance, repair and capital replacement of all or any part of the Facility to one or more third party contractors to ACM (each an "**ACM Contractor**"), including, without limitation, the ACM Services. Each ACM Contractor shall be entitled to exercise all of the rights and obligations of ACM under this Agreement with respect to all of such matters within the scope of its contract with ACM.
- 5.3 Maintenance. ACM shall maintain the Facility in reasonably good order and condition and will maintain insurance in commercially reasonable amounts for the Facility and ACM's activities under this Agreement. ACM shall not be liable or responsible for any interruption in any utilities or services (including ACM Services) that are due to causes beyond ACM's reasonable control. ACM reserves the right to stop the air conditioning, plumbing, electrical, or other mechanical systems or facilities on the Facility when necessary by reason of accident or emergency, or for repairs, alterations, replacements, or improvements, which, in the judgment of ACM, are desirable or necessary. ACM agrees to use commercially reasonable efforts to notify User, whether individually, by posting on the Facility, or other reasonable means, of any scheduled maintenance or repairs that will occur on the Facility.
- 5.4 ACM Right of Entry.
- (a) User agrees that ACM may enter any part of the Facility, including User Temporary Storage and other areas provided to User for User Equipment, at any time to:
- (i) inspect the same and exhibit the same to prospective users, purchasers, lenders or licensees; provided, however, ACM will not exhibit User Temporary Storage to any prospective users;
- (ii) determine whether User is complying with all of its obligations under this Agreement;

- (iii) supply services to be provided by ACM to User or as otherwise required to maintain the Facility including to make repairs, alterations, and improvements to any portion of the Facility; and
 - (iv) post notices of non-responsibility.
- (b) User hereby waives any claim for damages for any injury or inconvenience to or interference with User's business, any loss of occupancy or quiet enjoyment of User Temporary Storage area or any other loss occasioned by any such entry, except to the extent that the damage was caused by the gross negligence or willful misconduct of ACM. ACM shall at all times have and retain a key with which to unlock all of the doors in, on or about the Facility (excluding any User vaults or safes located in the User Temporary Storage). ACM shall have the right to use any and all means which ACM may deem proper to open any doors or gates in an emergency in order to obtain entry to any portion of the Facility, and any entry to spaces on the Facility obtained by ACM by any means shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer or an eviction, actual or constructive, of User from the Facility, or any portion thereof.

6. Liability Limits. Release and Indemnity.

- 6.1 **DISCLAIMER. ACCESS, ACM SERVICES, AND ACM EQUIPMENT ARE PROVIDED ON AN "AS-IS" BASIS AND USER'S USE OF THE PREMISES, ACCESS, ACM EQUIPMENT, AND ANY ACM SERVICES IS AT USER'S OWN RISK. NEITHER ACM NOR ANY ACM CONTRACTOR MAKES, AND HEREBY DISCLAIMS, ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND RELATING TO THIS AGREEMENT (INCLUDING THE ACCESS, ACM SERVICES, AND ACM EQUIPMENT), WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF FITNESS FOR PURPOSE, USE, NON-INFRINGEMENT, OR MERCHANTABILITY.**
- 6.2 **LIMITATION OF LIABILITY. IN NO EVENT SHALL ACM OR ANY ACM CONTRACTOR BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES OR EXPENSES (INCLUDING LOST PROFITS OR SAVINGS) ARISING OUT OF THE THIS AGREEMENT (INCLUDING IN CONNECTION WITH ANY ACCESS OR ACM SERVICES) REGARDLESS OF WHETHER THE CLAIM ARISES IN TORT, NEGLIGENCE, CONTRACT, WARRANTY, STRICT LIABILITY OR OTHERWISE, EVEN IF ACM HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE. USER IS ENTIRELY RESPONSIBLE FOR ANY USE OR INTERPRETATION OF THE TEST RESULTS OR OTHER DATA DERIVED FROM THE ACCESS, ACM EQUIPMENT, OR ACM SERVICES BY ITSELF OR THIRD PARTIES. WITHOUT LIMITING THE FOREGOING, THE TOTAL LIABILITY OF ACM OR ANY ACM CONTRACTOR TO USER OR ANY PERSON OR ENTITY ACTING FOR, BY OR THROUGH USER ARISING OUT OF THIS AGREEMENT WILL NOT EXCEED THE FEES PAYABLE TO ACM IN THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE CLAIMS.**
- 6.3 Basis of the Bargain. The Parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement represent the Parties' agreement as to the allocation of risk between the Parties in connection with ACM's obligations under this Agreement and that the limitations, exclusions and disclaimers will survive and apply even if found to have failed of their essential purpose. The Parties acknowledge that ACM entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth in this Agreement, and that they form an essential basis of the bargain between the Parties.

- 6.4 Release. In consideration of ACM granting User permission to enter and use the Facility as set forth herein, User hereby releases and agrees to release, indemnify, reimburse, defend and hold harmless ACM, its subsidiaries and affiliates and their respective officers, directors, employees, agents, subcontractors (including ACM Contractors), successors and assigns from all costs, fines, penalties, damages, liabilities, or expenses (including reasonable attorney fees, settlements, and judgments) arising from any claim, cause of action, demand, lawsuit, administrative claim, regulatory actions, and other proceedings arising out of or related in any way to:
- (a) activities on the Facility by User, its employees, agents, invitees, guests, and contractors including any decision of User to enter into this Agreement to gain Access or use ACM Services;
 - (b) bodily injury, death, environmental damage or property damage resulting from User's Access including, without limitation, damage to, or arising from, any ACM Equipment, User Equipment, or User Provided Resource (other than to the extent such damage is caused by the gross negligence or willful misconduct of the ACM or its representatives); or
 - (c) User's use or inability to use the test results or any damage to person or property caused by any testing done by User on the Facility including any loss, damage or liabilities that may result from any claims by any individual or entity including, without limitation, (i) User's customers, distributors, or resellers of User's products; (ii) User's employees or agents; (iii) User's vendors or suppliers; or (iv) User's shareholders and parties having a financial interest in User.

7. **Term and Termination.**

- 7.1 Term. Unless earlier terminated as provided below, this Agreement shall have a term of one (1) year from the Effective Date; provided, however, that unless either ACM or User terminates this Agreement not less than sixty (60) days prior to the expiration of such one (1) year term or any annual renewal thereof, this Agreement shall renew for successive one (1) year periods (such one (1) year term as it may be so extended, the "**Term**").
- 7.2 Termination. Either Party may terminate this Agreement without cause upon no less than [sixty (60) days prior written notice] to the other. In the event User is in default with respect to any of its obligations under this Agreement and User fails to cure the default within fifteen (15) days of notification of the default, ACM may immediately terminate this Agreement upon giving written notice to User.
- 7.3 Obligations on Termination. Upon the earlier of (a) termination or expiration of this Agreement or (b) User vacating all or any portion of the Facility used by User (including User Temporary Storage Area), User shall, at its sole cost and expense:
- (a) promptly remove all property from the Facility not belonging to ACM including, without limitation, materials and/or equipment (including User Equipment or User Provided Resources), and to the extent changed by User; and
 - (b) return all keys and security badges.

ACM, at User's sole expense, will dispose of any User property remaining on the Facility fifteen (15) days after termination or expiration of this Agreement or User vacating all or any portion of the Facility used by User. If User fails to perform the foregoing, then ACM may, without limiting any other right or remedy of ACM available at law or in equity, repossess all or any portion of the Facility used by User (including User Temporary Storage), and remove any effects, without being guilty of trespass or conversion. Regardless of the reason for termination, expiration, or vacating the Facility, User shall be liable for all Fees, charges and reimbursements up to the date of termination or expiration or vacating the Facility, and for any costs incurred or committed as of the date of termination, including costs associated with termination requested by User or incurred by ACM.

7.4 Survival. Sections 1.4, 3.5, 4.7, 5.4(b), and 6 through 9 (including any other provisions of this Agreement that by its nature is intended to survive) will survive the termination or expiration of this Agreement.

8. **Confidentiality**.

8.1 Confidential Information. Each Party ("**Disclosing Party**") acknowledges that the other Party ("**Receiving Party**") may have access to certain valuable information belonging to the Disclosing Party which the Disclosing Party considers confidential ("**Confidential Information**"), including without limitation: test event data and vehicles, parts and supplies of any kind, correlation studies, blueprints or any likeness or representation of any portion of the Facility, information concerning the Facility and the activities thereof, any specifics of the design or layout of the Facility, dimensions of events, and event layout, methods and processes for operation of the Facility, methods and processes for testing, evaluating and correlating test results; computer programs, user manuals, testing plans, business plans, customer lists, and other trade secrets.

8.2 Non-Disclosure. The Receiving Party will not disclose such Confidential Information to third parties or use such Confidential Information for its own benefit, or for the benefit of third parties, except as required to perform its obligations under this Agreement. The Receiving Party shall disclose Confidential Information only to those of its employees and representatives who need to know such information for the purpose of this Agreement, and shall ensure that its employees and representatives observe the confidentiality obligations of this Section. The Receiving Party acknowledges that all rights in Confidential Information remain in the Disclosing Party.

8.3 Exclusions. This Agreement imposes no obligation of confidentiality upon the Receiving Party with respect to any portion of the Confidential Information that: (i) now or hereafter, through no act or failure to act on the Receiving Party's part, becomes generally known or publicly available; (ii) is known to the Receiving Party at the time the Receiving Party receives same from a third party as evidenced by written records; (iii) is hereafter furnished to Receiving Party by a third party as a matter of right and without restriction on disclosure; (iv) is independently developed by the Receiving Party, provided that the person or persons developing same have not had access to the Confidential Information as furnished by the Disclosing Party; or (v) is disclosed only to the extent required by legal process or other legal authority. User acknowledges that all applicable rights in all copyrights, trademarks, trade secrets, trade names, patents and other intellectual property rights in or associated with the Facility or with User's business are and will remain exclusively in their respective owners.

8.4 Intellectual Property. User acknowledges that other users of the Facility may be developing similar or competitive technologies to those of User and User waives any claim of intellectual property infringement against ACM and its agents except to the extent that User's patent rights are infringed directly by ACM or ACM directly misappropriates any trade secrets of User.

8.5 Rights to Record Images. Subject to the other provisions of this Agreement, ACM reserves the right to photograph or video events occurring at the Facility, whether or not confidential in nature, for any purpose including, without limitation, for purposes of documenting actual or potential damage to persons or property and for safety or security reasons. Except as otherwise allowed by this Agreement, ACM will not take pictures or any other action which would compromise the confidential nature of User's property or any testing activities conducted by User. User may not conduct aerial based recording of the Facility without the prior written approval of ACM, or bring any person from the media (including, without limitation, bloggers, free lancers, newspapers, magazines, and so on) onto the Facility and disclose anything about the Facility, in each case without ACM's prior written approval.

- 8.6 Rights to Collected Data. User acknowledges and agrees that any data containing ACM track, equipment, or facility details, collected, generated, or processed by its employees, contractors, or representatives (“Collected Data”) shall be considered Confidential Information of the American Center for Mobility (“ACM”). To the extent that the User obtains any right, title, or interest in or to any Collected Data, User hereby assigns, and agrees to assign, all right, title, and interest in and to same to ACM.
- 8.7 Mapping Data. User may want to build a simulation model of or navigation/localization aid for the ACM test facility in support of their on-site testing and development. In cases where User requires a digital map or model but is unable to create their own, ACM will direct User to 3D Mapping Solutions, which can provide fee-based digital mapping services. In cases where User the ability to create its own digital map, it is free to do so without a license or royalty fee, as long as the digital map is only used for the purposes of testing and development with no downstream sale, transference or publication.

For further clarity, in cases where User has retained a mapping company to provide a map of the ACM facility, the mapping company will not be able to sell, provide to others, or publish publicly or privately without a written agreement with ACM.

9. **Miscellaneous.**

- 9.1 Notices. All notices provided for or desired to be sent by the Parties shall be in writing, and shall be deemed to have been fully given when deposited in the United States mail via prepaid certified mail, or by prepaid overnight mail delivery service providing written evidence of delivery, and addressed as follows:

If to ACM:
801 Kirk Profit Drive
Ypsilanti, MI 48198
Attention: Chief Operating Officer

If to User:

- 9.2 Governing Law. This Agreement shall be governed by Michigan Law, without regard to any conflict of laws principals that would require the application of the Law of another jurisdiction. Each Party hereby consents to the exclusive jurisdiction and venue of the U.S. Federal District Court in the Eastern District of Michigan and Michigan Courts located in Washtenaw County, Michigan. Each Party hereby waives personal service of any and all process upon it, consents to service of process by registered mail directed to each Party at the address for notices herein, and acknowledges that service so made shall be deemed to be completed upon actual delivery thereof (whether accepted or refused).
- 9.3 Dispute Resolution. In the event of a dispute between the Parties relating to this Agreement, the one raising the matter in dispute will notify the other in a written notice describing in sufficient detail the nature of the dispute. Each Party will then appoint one or more representatives to resolve the dispute. These representatives will promptly meet and negotiate in good faith in an effort to reach a fair and equitable settlement. At the end of 60 days, if no settlement has been reached, either Party may end discussions, declare an impasse, and pursue any other legal or equitable remedy.
- 9.4 Waiver. No failure by ACM or User to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right, power or remedy consequent upon a breach of this Agreement constitutes a waiver of the breach or of the covenant, agreement, term or condition. No waiver of any breach affects or alters this Agreement, and each and every covenant, agreement, term, and condition of this Agreement continues in full force and effect with respect to any other then existing or subsequent breach.

- 9.5 Excusable Delays. Neither User nor ACM shall be liable for a failure to perform that arises from causes or events beyond its reasonable control and without its fault or negligence.
- 9.6 Independent Contractor. Each Party is an independent contractor to the other in the performance of this Agreement. Nothing in this Agreement and no action taken by the Parties under this Agreement shall (a) constitute a partnership, association, joint venture or other co-operative enterprise between the Parties or constitute any Party the partner, agent or legal representative of the other, (b) make any Party hereto (or any of such Party's employees, agents or representatives) an employee of the other Party, or (c) confer on any Party any expressed or implied right, power or authority to enter into any contract, express or implied, or to incur any obligation or liability on behalf of the other Party.
- 9.7 Severability. If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid, illegal or unenforceable provision.
- 9.8 Counterparts. This Agreement may be executed in one or more counterparts and by facsimile or other means of electronically imaging a signature, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.
- 9.9 Entire Agreement and Amendments. This Agreement contains the entire agreement between the Parties relating to the transactions contemplated by this Agreement and supersedes all previous agreements, arrangements and understandings between the Parties relating to those transactions or that subject matter. This Agreement may not be changed orally but only by an instrument in writing signed by both ACM and User.

EXHIBIT A
INSURANCE REQUIREMENTS

User shall procure and maintain insurance continuously throughout the term of the agreement from companies listed in the current "Best's Insurance Guide" as possessing a minimum policy holders rating of "A-"(Excellent) and a financial category no lower than "VI"(\$25,000,000 to \$50,000,000 of adjusted policy holders' surplus) the following insurance which shall cover User's activities under this Agreement whether the activities be by itself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

Liability Insurance

- a) Statutory Workers' Compensation Insurance for statutory limits or a State certificate of self-insurance and Employer's Liability insurance with limits of not less than \$1,000,000 per accident basis or occurrence.
- b) Occurrence type commercial general liability insurance, including blanket contractual coverage, for bodily injury including death, personal injury and property damage with limits of not less than \$5 million combined single limit per occurrence and general aggregate.
- c) Business automobile liability insurance covering all owned, non-owned and hired vehicles, with limits of not less than \$5 million combined single limit per accident basis or occurrence.

Excepting such Workers' Compensation insurance, the commercial general liability and business automobile liability listed above must name ACM as an additional insured, which requirement may be satisfied through a blanket additional insured basis.

The commercial general liability and business automobile liability insurance policies of the User shall be primary to, and will not be excess to or contributory with, any self-insurance or insurance policies carried by ACM. The User shall provide at least 30 days' prior written notice to ACM in the event of insurance cancellation or material alteration of the policy. User shall furnish to ACM an acceptable certificate of insurance evidencing the required coverage required. The furnishing of acceptable evidence of required coverage does not relieve User from any liability or obligation for which it is otherwise responsible to ACM.

User may substitute self-insurance or a captive insurer to meet these requirements, subject to ACM's reasonable approval. Please provide a letter of self-insurance explaining the self-insurance mechanism. User may also use an umbrella policy to meet the limits required by this Exhibit.

User shall require that its subcontractors procure and/or maintain insurance coverage at the limits described above. User shall be primarily and fully responsible for any cost to ACM regardless of any subcontractor's obtaining or failing to obtain and/or maintain the required insurance.

EXHIBIT B
ENVIRONMENT REQUIREMENTS

This Environment Requirements exhibit (this "**Exhibit**") is incorporated by reference in the attached American Center for Mobility User Access and ACM Services Agreement (the "**Agreement**") between ACM and User. Capitalized terms used but not defined in this Exhibit have the meanings given to them in the Agreement.

1. **Definitions.** For purposes of this Exhibit, the following terms have their indicated meanings:

"Environmental Condition" means the presence of a Hazardous Material on, in or under the Facility that is not a Pre-Existing Condition.

"Environmental Laws" means any federal, state or local law, statute, code, ordinance, regulation, rule, judgment, order, decree, injunction, permit or restriction, relating to the environment or Hazardous Substances (including but not limited to ground, air, water, or noise pollution or contamination, and underground or aboveground tanks) and shall include without limitation, the Michigan Natural Resources and Environmental Protection Act, MCLA Chapter 324, as amended; the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 *et seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 *et seq.*, as amended by the Superfund Amendment and Reauthorization Act of 1986; the Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. Sec. 1251 *et seq.*; the Clean Air Act, 42 U.S.C. Sec. 7401 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. Sec. 2601 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. Sec 300 *et seq.*; the Rivers and Harbors Act, 33 U.S.C. Sec. 401 *et seq.*; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Sec. 11001 *et seq.*; and the Oil Pollution Act of 1990, 33 U.S.C. Sec. 2701 *et seq.*

"Hazardous Material" means any toxic, radioactive, flammable, explosive, corrosive, reactive substance, waste or material that may be hazardous to human health or the environment, or any substance, waste or material having any constituent elements displaying any of the foregoing characteristics including petroleum, its derivatives, by-products and other hydrocarbons, and any substance, waste or material regulated under any Environmental Law (including any substances, wastes or materials identified as "hazardous substances," "hazardous materials," "toxic substances," or "hazardous wastes" in any Environmental Law.

"Pre-Existing Condition" means the presence of a Hazardous Material on, in or under the Facility as disclosed in an environmental site assessment report(s), if any, attached hereto.

"Remedial Action" means, but is not limited to, cleanup, removal, containment, isolation, destruction, or treatment of a hazardous substance released or threatened to be released into the environment, monitoring, maintenance, or the taking of other actions that may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, or to the environment.

"Response Activity" means evaluation, interim response activity, Remedial Action, demolition, providing an alternative water supply, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or the natural resources. Response activity also includes health assessments or health effect studies carried out under the supervision, or with the approval of, the department of community health and enforcement actions related to any Response Activity.

2. General Requirements.

User, at its sole cost and expense, will:

- (a) comply with all Environmental Laws and the ACM's written safety and use requirements relating to the use and operation of the Facility;
- (b) keep the Facility free of any Hazardous Material except as may be necessary in the normal course of business;
- (c) maintain a written inventory (including quantity) of Hazardous Material(s) stored, manufactured, processed, or otherwise used on the Facility by User, with the exception of fuel, oil and other fluids and substances used or accommodated within the test vehicles, and make that written inventory reasonably available for inspection and copying by ACM upon request.
- (d) upon the discovery of an Environmental Condition:
 - (i) as soon as practicable, but not later than two (2) business days after the discovery of the Environmental Condition, notify ACM of the Environmental Condition;
 - (ii) prior to commencement of any non-emergency Response Activity or Remedial Action, submit a scope of work for it to ACM for review and comment;
 - (iii) attempt to resolve in good faith any disputes with ACM regarding any Response Activity or Remedial Action proposed to be completed by User;
 - (iv) perform Response Activity or Remedial Action as may be required by Environmental Law and ACM's reasonable requirements; and
 - (v) comply with applicable Release (within the meaning of MCL 324.20101) release reporting requirements.
- (e) upon request, provide ACM with every environmental report and all material environmental information regarding any Response Activity or Remedial Action or Release (within the meaning of MCL 324.20101) reporting completed by User related to the Facility.
- (f) not use any above-ground tank (including barrels and drums), of any size within or around the Facility without ACM's prior written consent.
- (g) not treat, discharge, dispose of, or permit the treatment, discharge or disposal of any Hazardous Material in, or, under, around, or above the Facility at any time during the except as may be required for Response Activity or Remedial Action for any Environmental Condition.

Conduct of User for Hazardous Material. If User generates, uses, transports, or stores, any Hazardous Material, User shall, at its own cost and expense, comply with all Environmental Laws relating to the Hazardous Material.

User's Indemnification. In addition to any other indemnification obligation in the Agreement and without limiting their scope, as related to activities arising out of or related to the Agreement, User shall reimburse, defend, indemnify, and hold harmless ACM, its officers, employees, subcontractors, and agents from and against any and all claims, response costs, losses, liabilities, damages, liabilities, costs, and expenses, including reasonable attorneys' and consultants' fees, to the extent arising out of and are caused by any or all of the following:

- (a) any Hazardous Material (other than a Pre-Existing Condition) which is or was actually or allegedly generated, stored, treated, released, disposed of, or otherwise located on or at the Facility or any portion thereof at levels or concentrations in excess of those levels or concentrations associated with the Pre-Existing Conditions as a result of the act or omission of User (regardless of the location at which such Hazardous Material is now or may in the future be located or disposed of), including, but not limited to any and all:
 - (i) liabilities under any common law theory of tort, nuisance, strict liability, ultra-hazardous activity, negligence, or otherwise based upon, resulting from or in connection with any Hazardous Material;
 - (ii) obligations to take response, cleanup, or corrective action pursuant to any Environmental Laws; and
 - (iii) the reasonable costs and expenses of investigation or remediation in connection with the decontamination, removal, transportation, incineration, or disposal of any of the foregoing.
- (b) any actual or alleged illness, disability, injury, or death of any person, in any manner arising out of or allegedly arising out of exposure to any Hazardous Material or other substances or conditions present at the Facility or any portion thereof at levels or concentrations in excess of those levels or concentrations associated with the Pre-Existing Conditions as a result of the act or omission of User (including, but not limited to, ownership, operation, and disposal of any equipment which generates, creates, or uses electromagnetic fields, x-rays, other forms of radiation and radioactive materials), regardless of when any such illness, disability, injury, or death shall have occurred or been incurred or manifested itself; and
- (c) any actual or alleged failure of User at any time and from time to time to materially comply with all applicable Environmental Laws or any permit issued thereunder;
- (d) any failure by User to comply with any obligation under this Article relating to an Environmental Condition for which User is remediating party;
- (e) User's failure to provide any information, make any submission, and take any step required by any relevant governmental authorities;
- (f) the imposition of any lien for damages caused by, or the recovery of any costs for, the remediation or cleanup of any Hazardous Material as a result of the act or omission of User;
- (g) costs of removal of any and all Hazardous Materials from all or any portion of the Facility, which Hazardous Materials came to be present at the Facility or any portion at levels or concentrations in excess of those levels or concentrations associated with the Pre-Existing Conditions as a result of the act or omission of User; and
- (h) any spills, discharges, leaks, escapes, releases, dumping, transportation, storage, treatment, or disposal of any Hazardous Material arising out of any act or omission of the User resulting in levels or concentrations in excess of those levels or concentrations associated with the Pre-Existing Conditions on the Facility which occur during the Term of the Agreement, but only to the extent that the Hazardous Material originated from or were or are located on the Facility.