ASE Education Foundation
Transportation Automotive Technician Apprenticeship Incentive Fund
Terms and Conditions for Sponsor Participation

By applying to participate in the ***ASE Education Foundation Transportation Automotive Technician Apprenticeship Incentive Fund*** (Program) as **Sponsor Participant**, the Sponsor Participant agrees to be bound by the following terms:

This Agreement is entered into as of the date you submit your application for the Sponsor Participant to participate in the Program.

This Agreement is by and between ASE Education Foundation having an address at 1503 Edwards Ferry Rd NE Ste 201, Leesburg, VA 20176 (ASEF) and **Sponsor Participant** having an address as indicated on the W9 submitted to ASEF (Sponsor Participant) for the Program. ASEF, and Sponsor Participant are referred to herein as the parties (Parties) and individually as the party (Party).

1. **Payment Administrator.** ASEF has engaged Jobs for the Future, Inc. ("Payment Administrator") to review invoices, assess payment eligibility, collect payee information, and disburse payments on ASEs behalf in connection with this Agreement. Sponsor Participant shall submit apply for apprentice eligibility and necessary payee information to Payment Administrator as directed by ASEF, and payment made by Payment Administrator on ASEF's behalf satisfies ASEF's payment obligation to the extent of that payment. Payment Administrator acts solely as ASEF's agent and is not a party to this Agreement. Every right, protection, release, limitation of liability, indemnity, waiver, and insurance benefit in this Agreement that is granted to ASEF or its agents also applies to Payment Administrator and its directors, officers, employees, and agents in connection with the Services and the administration of payments. Payment Administrator is an intended third-party beneficiary of those provisions and may enforce them directly.

2. **Services**.
   a. ASEF engages Sponsor Participant to comply with the Program requirements published at https://www.aseeducationfoundation.org/apprenticeship/sponsor-application/mou-terms/ *(*Services), and to exercise Sponsor Participant's professional judgment and discretion in providing the Services. Sponsor Participant agrees to perform the Services with the degree of skill and diligence normally exercised by professionals who regularly perform the same or similar types of work and to the satisfaction of ASEF. Sponsor Participant warrants that it is qualified to properly perform the Services, and that it has obtained all licenses and permits that are necessary to perform the Services.
   b. Nothing contained in this Agreement shall be construed to require Sponsor Participant to accept any assignment or work offered by ASEF or to remain available for any such assignment; and, except as herein provided and agreed upon, nothing contained herein shall restrict Sponsor Participant's right to provide services independently of this Agreement at any time, and in fact Sponsor Participant is in the business of providing such services.
   c. Sponsor Participant agrees to provide the Services at their discretion, based on a schedule of their choosing. Sponsor Participant need not work on a fixed schedule and may work whichever and as many days and hours as Sponsor Participant in good faith deems necessary in order to complete the Services in a proper and timely manner.

Sponsor Participant agrees that there will be no set amount of hours guaranteed under this Agreement.

d. Changes to the Program requirements will be published to https://www.aseeducationfoundation.org/apprenticeship/sponsor-application/mou-terms/ and Sponsor Participant will be notified in writing by ASEF.

3. **Period of Performance.** This Agreement shall start on the date you submit your application for the Sponsor Participant to participate in the Program and shall end on **June 30, 2030,** unless earlier terminated by written notice of either party to the other party. Sponsor Participant agrees to comply with the Program requirements, as published.

4. **Total Financial Obligation.** In consideration of Sponsor Participant's compliance with the Program requirements, and as properly rendered by Sponsor Participant and accepted by ASEF, shall pay Sponsor Participant sums in accordance with the detailed program information published to https://www.aseeducationfoundation.org/apprenticeship/sponsor-application/mou-terms/.

5. **Pay for Performance Incentive Payments.** Sponsor Participant shall apply for incentive payments via the ***ASE Education Foundation Transportation Automotive Technician Apprenticeship Incentive Fund Sponsor Application*** located at https://www.aseeducationfoundation.org/apprenticeship/sponsor-application. Sponsor Participant's submission on the ***Transportation Automotive Technician Apprenticeship Incentive Fund Sponsor Application*** shall comply with the guidance located at https://www.aseeducationfoundation.org/apprenticeship/sponsor-application/mou-terms/. Notwithstanding anything hereunder to the contrary, ASEF shall not be obligated to pay Sponsor Participant for travel expenses.

6. **Conflict of Interest.** Sponsor Participant asserts that to their knowledge, there is no conflict of interest or a cause of action under 48 CFR 52.203-7 Anti-Kickback Procedures involving the Sponsor Participant and further represents that:

   a. No ASEF Education Foundation official, employee or employee's immediate family member has an ownership interest in Sponsor Participant's company or is deriving personal financial gain from this Agreement.
   b. No retired or separated ASEF Education Foundation official or employee who has been retired or separated from the organization for less than one (1) year has an ownership interest in Sponsor Participant's company.
   c. No ASEF Education Foundation official or employee is contemporaneously employed or prospectively to be employed with the Sponsor Participant.
   d. Sponsor Participant has not and will not provide gifts, hospitality, gratuities or monetary amounts of any dollar value to any ASEF Education Foundation official, employee, representative or consultant to obtain or maintain a contract.
   e. If Sponsor Participant does have a Conflict of Interest which is inconsistent with the above, Sponsor Participant agrees to report said conflict to ASEF.
   f. If a Conflict of Interest develops during these Services, Sponsor Participant shall report such conflict to ASEF.

7. **Termination**.

   a. **For Cause.** ASEF may terminate this Agreement on written notice to Sponsor Participant if Sponsor Participant: (i) violates any provision of this Agreement; (ii) fails to deliver the Services in a timely or acceptable manner; or (iii) fails to provide the Services with the degree of quality expected and determined solely by ASEF, and Sponsor Participant does not cure such default within seven (7) days after receipt of notice; or (iv) engages in, is alleged to have engaged in, or becomes publicly associated with any conduct, act, omission, statement, or circumstance—whether occurring before or during the Term—that, in ASEF's reasonable judgment, (A) is illegal, fraudulent, or unethical; (B) constitutes harassment, discrimination, hate speech, violence, or other offensive or harmful conduct; (C) is inconsistent with the mission, values, or character of ASEF ; or (D) results in or is reasonably likely to result in negative publicity, public controversy, scandal, or other reputational harm to ASEF, including by virtue of Sponsor Participant's public statements, affiliations, social media presence, or prior actions that become publicly known. Termination under subsection (iv) may be made immediately, without any opportunity to cure.

   b. **Lack of Funding.** ASEF reserves the right to terminate or suspend this Agreement if funding for the Services or for the Project is withdrawn or reduced. Such cancellation or suspension will be effective immediately upon receipt of written notice from ASEF.

   c. **For Convenience.** ASEF reserves the right to terminate this Agreement for convenience. shall provide thirty (30) days written notice of its intent to terminate.

   d. **Effect of Termination.** Upon termination, ASEF shall have no further liability to Sponsor Participant from date of termination.

8. **Limitation of Liability.** In no event shall either Party be liable to the other Party for any losses or damages incurred during performance of the Agreement or for any incidental, consequential, indirect or punitive damages (including but not limited to lost profits, business revenue, goodwill or anticipated savings), regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose or otherwise and even if advised of the possibility of such damages.

9. **Force Majeure.** ASEF is not liable for failure to perform any of its obligations insofar as it can prove (a) that the failure was due to an impediment outside its control, (b) that it could not reasonably be expected to have taken the impediment, and its effects upon its ability to perform, into account at the time of the signing of this agreement; and (c) that it could not reasonably have avoided or overcome it or at least its effects.

10. **Record Keeping.** Sponsor Participant shall maintain books, records, and other data compilations pertaining to the performance of Services and other obligations under this Agreement as set forth in Section 22, and in such detail as ASEF shall request, including sufficiently to properly substantiate claims for payment and/or completion of Services.

11. **Insurance**. Sponsor Participant will maintain in full force and effect during the term of this Agreement (i) all forms of liability insurance reasonably commensurate with the risks presented by Sponsor Participant's performance or breach of this Agreement.

12. **Indemnification.** Sponsor Participant shall defend, indemnify, and hold harmless ASEF, and its directors, officers, employees and agents, and their respective successors, heirs, and permissible assigns (Indemnitees) against any and all liability, loss, or expense (including reasonable attorneys' fees and expenses of litigation whether incurred in the defense of a third Party claim or a claim to enforce this provision), and other damages (Losses) that may be incurred by or imposed upon the Indemnitees, or any of them, in connection with any claim, suit, demand, action, or judgment arising out of the following: (a) any breach by Sponsor Participant of any representation or warranty made by it; (b) Sponsor Participant's failure to perform any obligation in this Agreement; (c) any claim that any part of the Services infringes or misappropriates the right of any third Party; (d) any delegation or subcontracting of any right or obligation under this Agreement without ASEF's prior consent; and (e) Sponsor Participant's negligent acts or omissions, willful misconduct, or bad faith toward any Indemnified Party.

13. **Primary Contacts; Notices.** Unless otherwise specified in this Agreement, any required consent or other notice shall be provided in writing and deemed delivered: (a) upon personal delivery; (b) five (5) days after deposit with the U.S. Postal Service, properly addressed with first class postage prepaid; or (c) upon receipt, if notice is delivered by private courier or mail (including overnight mail) or equivalent delivery service that requires a written signature of addressee. During times of government mandated non-essential business closures, required consent and other notices can be sent and received by email and other electronic communication. For purposes of this **Section 13 (Primary Contacts; Notices)**, the term 'properly addressed' means:

- if addressed to ASEF , notice has been addressed to **Michael Coley at mcoley@ase.com** and to **Mark Wilson at mwilson@ase.com**, with copies to **Heather Terenzio at hterenzio@jff.org** and to **Majj Tharpe at mtharpe@jff.org.**
- if addressed to Sponsor Participant, notice has been addressed to **Sponsor Participant's Contact at the email provided within the *Transportation Automotive Technician Apprenticeship Incentive Fund Sponsor Application.***

14. **Confidentiality**.

a. "Confidential Information" means nonpublic technical data, knowledge, marketing data or techniques, business plans, and other information that one Party (Discloser) considers to be unique, valuable, or otherwise proprietary to it. In performing under this Agreement, it may be necessary for Discloser to provide Proprietary Information to the other Party (Receiver). Discloser shall endeavor to identify in writing, by appropriate stamp, legend, notice or otherwise inform Receiver of any Proprietary Information. Discloser retains all rights in the Confidential Information, and Receiver acquires no rights therein except the right to use it to the extent necessary in connections with the purposes of this Agreement.

b. Receiver shall exercise the same degree of care with respect to the Confidential Information that it normally exercises to preserve its own information of a like nature, but not less than a reasonable degree of care. Receiver shall restrict disclosure of such

Confidential Information to only those employees, consultants, or agents who have a need to know and who have agreed to terms of use and nondisclosure at least as restrictive as those in this Agreement.

c. The obligations of confidentiality regarding Confidential Information shall not apply to any information which Receiver can reasonably demonstrate: (i) was in the public domain at the time of receipt or later came into the public domain through no act of Receiver; (ii) was in Receivers' written records before its receipt from Discloser; (iii) was independently developed as demonstrated by written records; (iv) was lawfully disclosed on an unrestricted basis to Receiver by a third Party believed to have the right to do so; or (v) is required to be disclosed by governmental or court order; provided that in such case Receiver promptly notifies Discloser and cooperates with it to oppose or limit such order.

d. All information, data, and other material, concerning ASEF, its clients, donors, programs, projects, finances, operations, plans or proposals, that Sponsor Participant obtains or produces while performing the Services, is ASEF Confidential Information. Sponsor Participant may not disclose, directly or indirectly, or use in any manner, other than to perform the Services, ASEF Confidential Information. In addition, Sponsor Participant shall return to ASEF any Confidential Information that has provided to Sponsor Participant at the earlier of (i) such time that ASEF requests it; or (ii) at the conclusion of the **Period of Performance**.

e. The obligations of confidentiality and non-use shall survive expiration or termination of this Agreement for any reason.

15. Independent Sponsor Participant; Compliance.

a. Intention of Parties. In performing the Services under this Agreement, Sponsor Participant will be an independent Sponsor Participant. Nothing in this Agreement creates or should be deemed to create any relationship of employer and employee or of principal and agent between ASEF and Sponsor Participant. Sponsor Participant is acting hereunder as an independent Sponsor Participant and shall be deemed an independent Sponsor Participant and not an employee of ASEF for all purposes of federal, state and local laws including but not limited to those pertaining to income taxes, withholding taxes, Social Security, or unemployment compensation.

b. No Agency, Joint Venture or Partnership Relationship. This Agreement does not create any agency relationship between Sponsor Participant and ASEF. Accordingly, Sponsor Participant shall not have any authority to obligate ASEF in any manner whatsoever. Nothing contained in this Agreement shall be construed to create a joint venture or partnership between the Parties.

c. No Representation of Employment. It is understood between ASEF and the Sponsor Participant that this Agreement shall not lead to direct employment of Sponsor Participant by ASEF. Sponsor Participant shall not represent itself to ASEF staff or any third Party as an employee of ASEF. Sponsor Participant shall indemnify ASEF for any penalties, charges or other obligations arising out of such representation or from any conduct that compromises the Sponsor Participant's legal status as an independent Sponsor

Participant hereunder.

d. No Control of Specific Manner of Performance. Sponsor Participant and ASEF expressly understand and agree that Sponsor Participant is engaged herein as an independent Sponsor Participant, and ASEF shall have, or exercise, no control or direction over the manner or method by which Sponsor Participant provides Services hereunder, other than the right to specify the general Services that ASEF engages Sponsor Participant to perform and to require that the performance of such Services be, at all times, in strict accordance with reasonable and safe methods of practices and with all recognized professional ethics and customs.

e. Representations; Debarment, Suspension; Compliance with Laws, etc.

i. Sponsor Participant represents that it is not suspended or debarred from doing business with the Federal Government or with any state, county or municipal agency. Sponsor Participant is solely responsible for being familiar with and for complying with all laws, regulations and self-regulated organization standards applicable to its business and to the Services it agrees to perform under this Agreement.

ii. Sponsor Participant certifies that it does not engage in any employment, training, or contracting practices that provide preferences, advantages, or disadvantages based on race, sex, or other protected characteristics. The Sponsor Participant agrees to ensure that all employment and business decisions are based solely on legally permissible criteria, including merit, qualifications, and performance. The Sponsor Participant further agrees to require all subcontractors to comply with these provisions. Failure to comply may result in termination, suspension, or debarment of the contract.

16. **Entirety of Agreement.** This Agreement constitutes the full and complete terms of the agreement between the Parties and supersedes any prior understandings, representations, agreements, or arrangements, written or oral, between them concerning the subject matter of this Agreement. No other provisions or requirements that are not incorporated into this Agreement are valid. Terms of this Agreement may be waived or unilaterally modified by ASEF.

17. **Choice of Law.** This Agreement shall be governed by the laws of the Commonwealth of Virginia, without regard to its conflict of laws, and any action arising under this Agreement must be brought in a court of competent jurisdiction within the Commonwealth of Virginia.

18. **Severability.** The provisions of this Agreement are severable. If any individual provision is found to be unenforceable, the remainder shall remain in force.

19. **Assignment. Neither** this Agreement nor any of the rights or obligations hereunder (or under any document delivered pursuant hereto) may be assigned by Sponsor Participant without the prior written consent of ASEF.

20. **Assurances, Certifications, and Requirements**. **Additional assurances may need to be added based on requirements of each Federal award agreement.** By submitting an

application for the Sponsor Participant to participate in the Program, Sponsor Participant makes the certifications and assurances in this **Section 20 (Assurances, Certifications, and Requirements)** and shall be responsible for compliance with the certifications, assurances, and the federal laws, rules, and regulations referenced in this **Section 20 (Assurances, Certifications, and Requirements)**. The assurances, certifications, and the requirements that Sponsor Participant shall be subject to and shall comply with include, but are not limited to, the following:

a. Certification Regarding Lobbying
   - **i.** No Federal appropriated funds have been paid or will be paid, by or on behalf of Sponsor Participant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
   - **ii.** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Sponsor Participant shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” to ASEF.
   - **iii.** This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

b. Debarment, Suspension, and Other Responsibility Matters. Sponsor Participant by signing this Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency.

c. 29 CFR Parts 95 and 97. In addition, by acceptance of this Agreement, Sponsor Participant will be responsible for compliance with the following federal laws, rules, and regulations, as specified in the Code of Federal Regulations, Title 29, Parts 95 and 97, as applicable:
   - **i.** Copeland ‘Anti-Kickback’ Act (18 U.S.C. 874 and 40 U.S.C. 276c);
   - **ii.** Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7);
   - **iii.** Contract Work Hours and Safety Standards Act (40 U.S.C. Sec. 327-333);
   - **iv.** Federal requirements relating to Rights to Inventions Made Under a Contract or Agreement;
   - **v.** Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), as amended;
   - **vi.** Byrd Anti-Lobbying Amendment (31 U.S.C. Sec. 1352);
   - **vii.** Debarment and Suspension (Executive Orders 12549 and 12689);
   - **viii.** Federal requirements relating to Non-Discrimination;
   - **ix.** Federal requirements relating to Drug-free Workplaces;
   - **x.** “Jobs for Veterans Act” (JVA), Public Law 107-288 (38 USC 4215);

xi. Buy American Notice Requirement – See Workforce Investment Act Section 505—Buy American Requirements; and

xii. Salary and Bonus Limitations – Public Laws 110-5, 109-149, and 109-234.

21. Executive Order 14398 and Federal Acquisition Regulation ("FAR") 52.222-90 Compliance

a. Compliance Obligation. Sponsor Participant shall comply with all applicable federal requirements, including, without limitation, Executive Order 14398, "Addressing DEI Discrimination by Federal Sponsor Participants," and FAR clause 52.222-90, as may be incorporated into the Prime Contract, funding agreement, or other contract-like instrument.

b. Prohibited Conduct. In connection with the performance of Services under this Agreement, Sponsor Participant agrees that it shall not engage in any "racially discriminatory DEI activities," as defined in FAR 52.222-90, including disparate treatment based on race or ethnicity in recruitment, employment, contracting, program participation, or the allocation or deployment of resources.

c. Records and Access. Sponsor Participant shall furnish all information and reports and provide access to books, records, and accounts as reasonably requested by ASEF or any authorized governmental or funding agency representative for purposes of verifying compliance with this subsection.

d. Reporting and Notice. Sponsor Participant shall promptly notify ASEF in writing of:

i. any actual, alleged, or reasonably suspected violation of this subsection;

ii. any governmental inquiry, audit, or investigation relating to such requirements; and

iii. any claim, complaint, or litigation that relates in any way to Executive Order 14398 or FAR 52.222-90.

e. Cooperation. Sponsor Participant shall cooperate fully with ASEF in responding to any inquiry, audit, investigation, or request from any governmental authority or funding agency relating to this subsection.

f. Flow-Down. Sponsor Participant shall include the substance of this subsection, including all reporting and compliance obligations, in all subcontracts at any tier entered into in connection with the performance of Services under this Agreement, to the extent required by applicable law or the prime award. Sponsor Participant shall be responsible for ensuring compliance by its subcontractors.

g. Materiality. Sponsor Participant acknowledges that compliance with the requirements described in this subsection may be material to the Government's or funding agency's payment decisions under any applicable federal award.

h. Remedies. Failure to comply with the requirements of this subsection may constitute a material breach of this Agreement and may result in termination, suspension, or other appropriate remedies, consistent with applicable law and the terms of the prime award.

22. Access to Records; Record Retention; Data Collection. ASEF, the Office of Inspector General of the United States, the Comptroller General of the United States, funding agency and/or any other duly authorized representatives, shall have access to and the right to examine all records, including without limitation any books, documents, or papers of Sponsor Participant that are directly pertinent to the services provided under this Agreement for the purpose of making audit, examination, excerpts, copies, and transcription.

a. Sponsor Participant shall permit reasonable access to its personnel for purposes of interviews and discussions related to such documents.

b. Sponsor Participant shall also establish a proper accounting system in accordance with Generally Accepted Accounting Principles or agency directives.
c. Sponsor Participant agrees to retain for seven (7) years (plus additional time beyond seven years until any applicable litigation, audit findings, or claims have been resolved) all records pertinent to this Contract, including, but not limited to, financial and programmatic records and supporting documents.
d. Sponsor Participant shall meet the data collection and reporting requirements provided in the Program requirements if applicable.

The total cost of the Transportation Automotive Technician Apprenticeship Incentive Fund is $25,000,000. $25,000,000 (100%) is funded through a U.S. Department of Labor Employment and Training Administration grant.

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