

# BOSTON DYNAMICS PROFESSIONAL SERVICES AGREEMENT

This Boston Dynamics Professional Services Agreement (this "PSA") is effective as of the Effective Date (defined below) and is entered into by and between Boston Dynamics, Inc., a Delaware corporation with offices at 200 Smith Street, Suite 4100, Waltham, Massachusetts, 02451 U.S.A. ("Boston Dynamics") and the Contractor identified below. The Contractor together with Boston Dynamics are sometimes referred to herein as the "Parties" or each individually as a "Party."

|                  |                                   |                                                                                               |
|------------------|-----------------------------------|-----------------------------------------------------------------------------------------------|
| "Contractor"     | Full legal name:                  | Jefferson County Board of Education dba Jefferson County Public Schools                       |
|                  | Place of legal organization:      | VanHoose Education Center<br>3332 Newburg Road Louisville, Kentucky 40218                     |
|                  | Postal address for legal notices: | Amanda Herzog<br>VanHoose Education Center<br>3332 Newburg Road<br>Louisville, Kentucky 40218 |
|                  | Email address for legal notices:  | amanda.herzog@jefferson.kyschools.us                                                          |
| "Effective Date" | March 1, 2023                     |                                                                                               |

This PSA includes this cover page and the following "PSA Terms," including all Schedules referred to in and attached to this PSA, which are hereby incorporated into this PSA.

Each Party has caused this PSA to be executed by its duly authorized representative on the date stated below the representative's signature.

Boston Dynamics, Inc.:

By:   
(Authorized Signature)

Name: BRENNAN SCHULMAN  
(Printed Name)

Title: VP OF POLICY + Gov. RELATIONS

Date: 2/17/23

Contractor:

By: \_\_\_\_\_  
(Authorized Signature)

Name: Dr. Marty Pollio  
(Printed Name)

Title: Superintendent

Date: \_\_\_\_\_

## PSA TERMS

### 1. Definitions.

- 1.1 **"Agreement"** means, collectively, this PSA and all SOWs issued under this PSA.
- 1.2 **"Background IP"** means all Intellectual Property owned or licensed by a Party (a) prior to the commencement of any applicable Service; or (b) independent of and with no application to the Services, and which are not acquired or developed pursuant to the Agreement or otherwise arises out of any Service or Deliverable.
- 1.3 **"Boston Dynamics Resources"** means any software, equipment, tooling, or materials that Boston Dynamics provides to Contractor in connection with the Agreement, whether by direct delivery, funding the purchase of, or otherwise making available to Contractor for use in connection with the Agreement.
- 1.4 **"Business Day"** means any day except, Saturday, Sunday and any day which is a legal holiday in the Commonwealth of Massachusetts.
- 1.5 **"Confidential Information"** has the meaning set forth in Section 6.1 (Definition).
- 1.6 **"Deliverables"** means any work product (including third party materials) to be provided by Contractor to Boston Dynamics under the Agreement.
- 1.7 **"Developed IP"** means any Intellectual Property (other than Background IP) created or discovered by Contractor or Boston Dynamics in connection with the Agreement.
- 1.8 **"Effective Date"** has the meaning set forth on the cover page to this PSA.
- 1.9 **"Inspection Period"** means the 10 Business Day-period following Boston Dynamics' receipt of any Service or Deliverable, unless otherwise specified in the applicable SOW.
- 1.10 **"Intellectual Property"** or **"IP"** means anything protectable by an Intellectual Property Right.
- 1.11 **"Intellectual Property Right"** means all rights associated with or arising out of any of the following in any jurisdiction throughout the world: (a) all U.S. and foreign patents, identified invention disclosures, and all related reissuances, divisionals, provisionals, continuations, continuations-in-part, revisions, renewals, extensions (including all supplementary protection certificates), and reexaminations thereof, and all applications and registrations therefor; (b) all trade secrets and corresponding rights in trade secrets, Confidential Information and other non-public information (whether or not patentable), including ideas, formulas, compositions, inventor's notes, discoveries and improvements, know-how, manufacturing and production processes and techniques, practices, methods, design manuals, testing information (including testing protocols and results), research and development information, prototypes, inventions, invention disclosures, developments, unpatented blueprints, drawings, specifications, designs, plans, proposals and technical data, business and marketing plans, market surveys, market know-how and Contractor lists and information, including all tangible embodiments of the foregoing; (c) all registered or unregistered copyrights, copyrightable works, rights in databases, data collections, "moral" rights, mask works, copyright registrations, applications and extensions thereof and corresponding rights in works of authorship or any subject matter protected by related rights, including all works of authorship under Section 102 of Title 17 of the United States Code, under the copyright and related rights laws of every country and jurisdiction throughout the world, now or hereafter known, whether registered or unregistered, for their entire term of protection, including all extensions, licenses, renewals or reversions thereof; (d) all trademarks, service marks, names, corporate names, logos, domain names, slogans, trade

dress and trade names, design rights, and other similar designations of source or origin (whether registered, common law, statutory or otherwise), all registrations and applications to register the foregoing anywhere in the world and all goodwill associated therewith; and (e) all computer software and code, including assemblers, applets, compilers, source code, object code, development tools, design tools, utilities, library files, user interfaces and data, and all documentation and manuals related to such computer software and code in any form or format, however fixed.

1.12 “**Personnel**” means Contractor(s) (if an individual) and all employees and agents of Contractor(s) and its subcontractors.

1.13 “**Services**” means the services that Contractor is required to provide to Boston Dynamics under the Agreement.

1.14 “**SOW**” means any statement of work specifying the Services and Deliverables to be provided under this PSA, as executed by the Parties.

1.15 “**Taxes**” means all government-imposed taxes, except for taxes based on any Contractor or any Personnel’s net income, net worth, asset value, property value, or employment.

1.16 “**Term**” has the meaning set forth in Section 11.1 (Term).

## **2. Services and Deliverables.**

### **2.1 Services; Requirements.**

(a) Services. Contractor will provide the Services and Deliverables as specified in each SOW.

(b) Software Requirements. If the Services or Deliverables include any customized software, then Contractor will develop all such software in compliance with any Boston Dynamics-provided software guidelines.

### **2.2 Inspection; Acceptance; Rejection.**

(a) Inspection. Boston Dynamics may inspect any Service or Deliverable during the applicable Inspection Period in accordance with the applicable SOW.

(b) Acceptance. Any Service or Deliverable received by Boston Dynamics and not rejected within the Inspection Period will be deemed by Contractor to be accepted. Such acceptance will not affect any applicable warranty under the Agreement.

(c) Rejection; Corrections. During the Inspection Period, Boston Dynamics may reject any Service or Deliverable that does not satisfy the Agreement’s requirements, including warranties and specifications. Boston Dynamics will provide to Contractor a written explanation for any such rejected Service or Deliverable. If requested by Boston Dynamics during the Inspection Period, Contractor will correct and re-deliver any rejected Service and Deliverable at no cost to Boston Dynamics, under agreed deadlines, and subject to further inspection by Boston Dynamics in accordance with this Section 2.2 (Inspection; Acceptance; Rejection). Otherwise, Boston Dynamics’ rejection is final, and Boston Dynamics will not be obligated to pay for any reasonably rejected Service or Deliverable.

2.3 Notice of Delays. Contractor will promptly notify Boston Dynamics in writing upon learning of any event that is likely to cause a delay in the delivery of any Service or Deliverable.

### **3. Payment.**

#### **3.1 Invoices.**

(a) Submitting Invoices. Contractor will invoice Boston Dynamics in accordance with the fee(s) specified in the SOW. Unless otherwise specified in the applicable SOW, Contractor will invoice Boston Dynamics monthly in arrears and only for Services and Deliverables accepted by Boston Dynamics in accordance with Section 2.2 (Inspection; Acceptance; Rejection).

(b) Paying Invoices. Boston Dynamics will pay Contractor any undisputed amount of an invoice submitted in accordance with Section 3.1(a) (Submitting Invoices), within 30 days, in USD, after Boston Dynamics receives such invoice in accordance with Section 3.1(a) (Submitting Invoices). Boston Dynamics is not required to pay any invoice submitted more than 180 days after the end of the applicable Inspection Period for the Services or Deliverables.

3.2 Expenses. Boston Dynamics will reimburse expenses up to the amounts specified in the applicable SOW, and only if such expenses are: (a) actual, reasonable, and necessary (without mark-ups or commissions); (b) approved in advance and in writing by Boston Dynamics; and (c) accompanied by receipts and other documentation that Boston Dynamics may request, which establishes the type, date, amount, payment, and purpose for such expenses.

#### **3.3 Taxes.**

(a) Invoicing and Payment. Except as otherwise set forth in the applicable SOW, Taxes are not included in any fees for Services or Deliverables. Boston Dynamics will pay to Contractor itemized, correctly-stated Taxes for the purchased Services and Deliverables unless Boston Dynamics provides to Contractor a valid Tax exemption certificate.

(b) Withholding Taxes. Boston Dynamics agrees to pay any sales, value-added, or other similar taxes imposed by applicable law that Contractor must pay based on the Services ordered, except for taxes based on Contractor's income; provided, that Contractor itemizes all applicable taxes on each invoice. If legally required, Boston Dynamics will withhold Taxes from its payments to Contractor and provide to Contractor a withholding Tax certificate.

### **4. Intellectual Property and Deliverables.**

4.1 Background IP. Except for the license rights granted under Section 5 (Licenses), neither Party will own or acquire any right, title, or interest in or to the other Party's Background IP under the Agreement.

4.2 Third Party Materials. Contractor will not incorporate any third party's Intellectual Property or any open source materials into any Deliverable without Boston Dynamics' prior written approval of: (a) such incorporation; and (b) any applicable license terms.

#### **4.3 Developed IP; Deliverables.**

(a) Title to Deliverables. Title to each Deliverable will transfer to Boston Dynamics upon delivery to Boston Dynamics and upon full payment for such Deliverable by Boston Dynamics.

(b) Ownership of Developed IP. Boston Dynamics owns any Developed IP.

(1) Developed IP is work made for hire to the extent permitted by applicable law, and Boston Dynamics retains all Intellectual Property Rights in Developed IP.

(2) To the extent that any Contractor or any Personnel owns any rights in the Developed IP, Contractor hereby assigns (or will procure the assignment of) all rights (including Intellectual Property Rights), title, and interest in the Developed IP to Boston Dynamics. If applicable law prevents future assignments, Contractor will assign (or will procure the assignment of) such rights as these are created.

(c) License to Developed IP if Assignment Fails. If applicable law prevents Contractor from transferring ownership of any Developed IP to Boston Dynamics, Contractor hereby grants Boston Dynamics a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferrable, worldwide license (with the right to sublicense) to:

(1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and

(2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP.

(d) Assistance to Accomplish Assignment. If requested by Boston Dynamics, Contractor will timely perform all acts reasonably necessary to accomplish the assignments and other transactions specified in the Agreement.

(e) Moral Rights in Deliverables. Contractor will not assert, and to the extent permitted by applicable law, otherwise waives, any moral rights in the Deliverables and Developed IP. Contractor will ensure that Personnel and other third parties who have moral rights in the Deliverables and Developed IP will also not assert, and to the extent permitted by applicable law, will waive, those moral rights.

## **5. Licenses.**

5.1 Boston Dynamics Background IP and Developed IP. If Boston Dynamics permits Contractor to use any of Boston Dynamics' Background IP or the Developed IP to provide Boston Dynamics with any Service or Deliverable, then subject to the Agreement, Boston Dynamics grants to Contractor a limited, non-exclusive, non-transferable, royalty-free, fully-paid, worldwide license (with the right to sublicense to its delegates and subcontractors authorized by Boston Dynamics under Section 13.4 (Subcontracting)) to do the following, during the term of the applicable SOW, solely for the purpose of, and only to the extent needed for, performing such Service and providing such Deliverable:

(a) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Background IP and Developed IP;

(b) make, use, and import such Background IP and Developed IP; and

(c) use brand features provided by Boston Dynamics under the Agreement, subject to any restrictions specified in the SOW, or by the SOW's specified Boston Dynamics Project Manager.

5.2 Contractor Background IP. If Contractor's Background IP is incorporated in, or is necessary to use, any Deliverable:

(a) Contractor must describe their Background IP in the applicable SOW; and

(b) Contractor grants to Boston Dynamics and its affiliates a perpetual, irrevocable, non-exclusive, royalty-free, fully-paid, transferable, worldwide license (with the right to sublicense) to do the following:

(1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Background IP in connection with the Deliverables and Developed IP; and

(2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Background IP in connection with the Deliverables and Developed IP.

## **6. Confidentiality; Publicity; Privacy and Security.**

6.1 Definition. “**Confidential Information**” means any nonpublic information concerning the business or property of the Party disclosing the information (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”), whether such information is disclosed directly or indirectly, in writing, orally or visually, including: (a) information relating to the Disclosing Party’s business, products and services, including, without limitation, technical data, trade secrets, know-how, product or service plans, ideas or concepts, software, inventions, techniques, processes, procedures, developments, product specifications, algorithms, data, formulas, designs, schematics, drawings, research, concepts, samples, intellectual property, inventions, manufacturing processes, and engineering information; (b) information relating to the Disclosing Party’s operations, business, financial plans or strategies, including, but not limited to, sales data and plans, marketing materials, contractual arrangements, Contractor, Contractor lists, vendors, suppliers, markets, financial statements, projections, pricing information, distribution methods, and financial and other strategic business plans or information; (c) information acquired during any tours of the Disclosing Party’s facilities; (d) the terms of any agreement, including the Agreement, and the discussions, negotiations, proposals, Services and Deliverables related to any agreement; and (e) any information which is marked or identified by the Disclosing Party as confidential and proprietary. Confidential Information does not include information or data which: (i) is or becomes generally available to the public through no fault of or failure to act by the Receiving Party inconsistent with its obligations under the Agreement; (ii) was rightfully in the possession of the Receiving Party prior to its receipt from the Disclosing Party, as evidenced by the Receiving Party’s records; (iii) is rightfully received by or becomes known to the Receiving Party from a source other than the Disclosing Party without, to the best of the Receiving Party’s knowledge, any breach of confidentiality owed to the Disclosing Party; (iv) is disclosed with the prior written consent of the Disclosing Party; or (v) is independently developed by the Receiving Party without any use of Confidential Information, as evidenced by the Receiving Party’s records. Each Party’s Background IP is its Confidential Information. The Developed IP and Deliverables are Boston Dynamics’ Confidential Information.

### **6.2 Confidentiality Obligations.**

(a) The Receiving Party shall maintain Confidential Information in strict confidence and shall use a reasonable degree of care to prevent the unauthorized use, disclosure, dissemination or publication of Confidential Information. If the Receiving Party discovers that any Confidential Information has been used, disseminated or published in violation of the Agreement, it will immediately notify the Disclosing Party, take commercially reasonable actions to minimize the impact of the use, dissemination or publication of such Confidential Information, and take any necessary steps to prevent any further breach of the Agreement.

(b) The Receiving Party agrees to use Confidential Information only to exercise its rights and fulfill its obligations under the Agreement (the “**Purpose**”) and not for its own purpose or benefit or for the benefit of any third party, without the prior written approval of the Disclosing Party. The Receiving

Party shall disclose Confidential Information, as applicable, only to its employees, directors, affiliates, agents or third party contractors who have a need to know such Confidential Information in order to fulfill the Purpose, who are: (1) in the case that such Confidential Information is Sensitive Technical Information (as defined in Section 8.2(i)), not (i) nationals of, in, or acting on behalf of, any Embargoed Country (as defined in Section 8.2(ii)) or (ii) an entity organized under the laws of any Embargoed Country; and (2) under confidentiality obligations no less restrictive than the Agreement. The Receiving Party shall not decompile, disassemble, or reverse engineer all or any part of the Confidential Information. No Confidential Information furnished to the Receiving Party shall be duplicated or copied except as may be strictly necessary to effectuate the Purpose. The Receiving Party is responsible for breaches of the Agreement by persons to whom it discloses Confidential Information received hereunder.

(c) In the event that the Receiving Party is requested or required by legal action (including oral question, interrogatories, requests for information or documents, subpoenas, civil investigation or similar process) to disclose any Confidential Information received under the Agreement, the Receiving Party shall, unless prohibited by applicable law, provide the Disclosing Party with prompt written notice of such request so that the Disclosing Party may seek a protective order or other appropriate relief, and the Receiving Party shall reasonably assist the Disclosing Party in such efforts. In the event that such protective order or other remedy is not obtained, the Receiving Party shall furnish only that portion of the Confidential Information which it is legally required to provide.

6.3 No Rights. Except for the limited rights acquired under the Agreement, the Receiving Party acknowledges and agrees (a) that all Confidential Information will remain the exclusive property of the Disclosing Party and (b) that no right or license is granted to the Receiving Party in relation to any part of the Confidential Information. The Receiving Party shall promptly return or, at the Disclosing Party's option, certify destruction of, all copies of Confidential Information at any time upon request by the Disclosing Party or within fifteen (15) days following the termination of the Agreement.

6.4 No Publicity. The Contractor agrees that it will not make any public announcement, press release, advertising or any other such disclosure relating to the Agreement or any matters related to or arising out of the Agreement, without the prior written consent of Boston Dynamics. The Parties agree to jointly develop a communications plan for the public release of information about the Agreement, if and when the Services and Deliverables are satisfactorily provided to Boston Dynamics.

## **7. Independent Contractor; Personnel.**

7.1 Not Employees. Contractor is an independent contractor. Contractor and Personnel are not Boston Dynamics employees. Contractor is responsible for:

- (a) Personnel's acts and omissions;
- (b) Staffing, instructing, and managing Personnel performing Services;
- (c) Determining Personnel's compensation (any stated rates for Services provided in an SOW are not Personnel wage rates); and
- (d) Paying for or making any contributions to all social security, Taxes, unemployment compensation, workers' compensation, insurance premium, profit-sharing, pension and any other employee benefit for Personnel.

7.2 No Agency. Nothing in the Agreement will be deemed to create an agency, partnership or joint venture between the Parties.

## 8. Representations and Warranties.

8.1 Mutual. Each Party represents and warrants to the other Party that all times during the Term (a) it is duly organized, validly existing and in good standing under the laws of its place of organization, as applicable, (b) it has full power and authority to enter into and fulfill its obligations under the Agreement, and the execution, delivery and performance of the Agreement and the transactions and other documents contemplated thereby have been duly authorized by all necessary action on the part of such Party, (c) the Agreement has been duly executed and delivered by an authorized person of such Party, and constitutes a legal, valid and binding obligation of the Party, fully enforceable against such Party in accordance with its terms, and (d) it will take reasonable measures to comply with all applicable laws, rules, and regulations in fulfilling its obligations under the Agreement.

8.2 Contractor. Contractor represents and warrants to Boston Dynamics that all times during the Term:

(a) Quality. Contractor's performance under the Agreement will be of professional quality and performed with reasonable skill and care consistent with generally accepted industry standards. Each Personnel performing Services has the requisite skills, experience, and qualifications.

(b) Specifications and Requirements. The Services and Deliverables will meet the Agreement's specifications and requirements.

(c) Viruses and Malicious Code. The Deliverables will be free from any viruses or other malicious code.

(d) License Rights. Contractor has and will retain all necessary rights to grant the licenses in the Agreement and provide the Services and Deliverables to Boston Dynamics, at no greater cost to Boston Dynamics than specified in the applicable SOW.

(e) No Breach of Third-Party Obligations. Contractor's and Personnel's fulfillment of their obligations under the Agreement will not breach any obligations they have to any third party.

(f) No Use of Third-Party Confidential Information. In performing the Services, Contractor will not use or bring to Boston Dynamics any third party's confidential or proprietary information unless Contractor obtains the third party's and Boston Dynamics' prior written consent.

(g) Compliance with Law. The Contractor declares that the Contractor has complied with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out the work to be performed under this Agreement.

(h) [Reserved.]

(i) Export Compliance. Contractor will comply with all applicable export control laws. Contractor will not seek authorization to export, reexport, or transfer any Confidential Information controlled pursuant to the International Traffic in Arms Regulations ("**ITAR**") or Export Administration Regulations absent advance written consent from Boston Dynamics. Contractor will not transfer any Sensitive Technical Information to any: (i) Embargoed Country, (ii) entity or person in or acting on behalf of any Embargoed Country, (iii) entity that is legally registered in or person who is a national of, any Embargoed Country, or (iv) non-U.S. military, or to any entity or person acting on behalf of any non-U.S. military. "**Sensitive Technical Information**" means any Boston Dynamics Confidential Information that is: (x) source code pertaining to robot balance, inertial measurement unit integration, or legged locomotion; (y) related to high-efficiency or low-noise hydraulics; or (z) hydraulics of bi-pedal or humanoid robotics.



**“Embargoed Country”** means any of (A) Russia; (B) China, and (C) any country that is subject to (1) anti-terrorism controls on the Commerce Control List, specifically column AT 1 (see 22 C.F.R. § 738 Supplement No. 1), and (2) a U.S. arms embargo under the ITAR, Section 126.1 (22 C.F.R. § 126.1). Contractor will monitor the foregoing regulations for any changes to such Embargoed Countries and any additional countries named under the foregoing regulations shall be treated as Embargoed Countries for purposes of the Agreement as of the date of the promulgation of the regulations. No Personnel with access to Boston Dynamics Sensitive Technical Information is: (1) a citizen of any Embargoed Country, or (2) an individual or entity identified on the Bureau of Industry and Security’s Denied Persons List or the Office of Foreign Assets Control’s Specially Designated Nationals List.

## **9. Defense and Indemnity.**

9.1 Contractor Indemnification Obligations. To the extent permitted by law, Contractor will defend, indemnify and hold harmless Boston Dynamics, its affiliates and their respective directors, officers, employees, and agents against all third-party claims, liabilities, damages, losses, costs, fees (including reasonable legal fees), and expenses (collectively, **“Losses”**), whether or not a lawsuit or other proceeding is filed, in connection with or arising from:

- (a) any material breach by Contractor of any of the terms, conditions, representations or warranties provided under the Agreement;
- (b) any negligence, willful misconduct, fraud, misrepresentation, or violation of applicable law by Contractor or any Personnel;
- (c) any property damage, personal injury, or death related to Contractor’s or any Personnel’s performance of the Services;
- (d) any breach by Contractor of Section 5 (Licenses);
- (e) any breach by Contractor of Section 6 (Confidentiality; Publicity; Privacy and Security); or
- (f) an allegation that use of the Services or Deliverables infringes or misappropriates any third party’s rights, including Intellectual Property Rights.

9.2 Boston Dynamics Indemnification Obligations. Boston Dynamics will defend, indemnify and hold harmless Contractor, its affiliates and their respective directors, officers, employees, and agents against all third-party Losses, whether or not a lawsuit or other proceeding is filed, in connection with or arising from:

- (a) any material breach by Boston Dynamics of any of the terms, conditions, representations or warranties provided under the Agreement;
- (b) any negligence, willful misconduct, fraud, misrepresentation, or violation of applicable law by Boston Dynamics;
- (c) any breach by Boston Dynamics of Section 6 (Confidentiality; Publicity; Privacy and Security); or
- (d) an allegation that use of any Boston Dynamics Resource by Contractor infringes or misappropriates any third party’s rights, including Intellectual Property Rights, except to the extent that such infringement or misappropriation arises from Contractor’s modification of or combination of other products with such Boston Dynamics Resource.

9.3 Proceeding. If any investigation, action or other proceeding (each a "**Proceeding**") is initiated against any indemnified party and the indemnified party intends to seek indemnification under this Section 9 (Defense and Indemnity), then such party shall give prompt notice to the indemnifying party; provided, however, that the failure to so notify the indemnifying party shall not relieve the indemnifying party of its obligations under this Section 9 (Defense and Indemnity) but instead shall reduce those obligations by the amount of damages or increased costs and expenses attributable to such failure to give notice. Upon receipt of notice of a Proceeding for which indemnification is available under this Section 9 (Defense and Indemnity), the indemnifying party shall diligently defend against the Proceeding on behalf of the applicable indemnified parties at the indemnifying party's own expense using counsel reasonably acceptable to the indemnified party; provided, however, that if the indemnifying party shall fail or refuse to conduct the defense, or if the indemnified party has been advised by counsel that it may have defenses available which are different from or in addition to those available to the indemnifying party or that any indemnified party's interests in the Proceeding is adverse to the indemnified party's interests, then the indemnified party may defend against the Proceeding at the indemnifying party's expense. The indemnified party may participate in any Proceeding being defended against by the indemnifying party at its own expense. Neither Party may settle any Proceeding without the prior consent of the other Party, which consent shall not be unreasonably withheld. The Parties shall cooperate with each other in the conduct of any Proceeding.

#### **10. Limitations of Liability.**

10.1 Limitations. SUBJECT TO SECTION 10.2 (EXCEPTIONS TO LIMITATIONS), IN NO EVENT SHALL (a) EITHER BOSTON DYNAMICS OR CONTRACTOR BE LIABLE UNDER THE AGREEMENT TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, SHUTDOWN OR SLOWDOWN COSTS, INCONVENIENCE, LOSS BUSINESS OPPORTUNITIES, DAMAGE TO GOODWILL OR REPUTATION, OR OTHER ECONOMIC LOSS, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN; OR (b) BOSTON DYNAMICS' OR CONTRACTOR'S TOTAL LIABILITY UNDER THE AGREEMENT EXCEED THE FEES PAID OR PAYABLE BY BOSTON DYNAMICS TO CONTRACTOR UNDER THE AGREEMENT DURING THE 12 MONTH PERIOD PRIOR TO THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH LIABILITY.

10.2 Exceptions to Limitations. NOTWITHSTANDING SECTION 10.1 (LIMITATIONS), NOTHING IN THE AGREEMENT EXCLUDES OR LIMITS THE LIABILITY OF EITHER PARTY RESULTING FROM OR ARISING OUT OF MATTERS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW AND SUCH PARTY'S:

- (a) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT;
- (b) FRAUD OR FRAUDULENT MISREPRESENTATION;
- (c) BREACH OF SECTION 5 (LICENSES);
- (d) BREACH OF SECTION 6 (CONFIDENTIALITY; PUBLICITY; PRIVACY AND SECURITY); OR
- (e) OBLIGATIONS UNDER SECTION 3 (PAYMENT) AND SECTION 9 (DEFENSE AND INDEMNITY).

## **11. Term and Termination.**

11.1 Term. The term of this PSA (the “**Term**”) shall commence on the Effective Date and continue for the later of 1 year thereafter and the expiration or termination of all open SOWs under this PSA, unless terminated earlier in accordance with this Section 11 (Term and Termination). The Term may be extended by the mutual written agreement of the Parties.

11.2 Termination for Breach. Either Party may immediately terminate the Agreement on written notice to the other Party if:

(a) the other Party breaches Section 6 (Confidentiality; Publicity; Privacy and Security), Section 8 (Representations and Warranties), or Section 12 (Insurance) of this PSA; or

(b) the other Party is in material breach of the Agreement, except for Sections 6 (Confidentiality; Publicity; Privacy and Security), 8 (Representations and Warranties) and 12 (Insurance) of this PSA, and fails to cure such breach within 30 days after receiving written notice from the non-breaching Party.

11.3 Termination for Law. Either Party may immediately suspend performance under the Agreement if such performance is prohibited by law or government or court order.

11.4 Termination for Convenience. Boston Dynamics may terminate this PSA or any SOW at any time on written notice to Contractor, subject to Section 11.5 (Effects of Termination).

11.5 Effects of Termination.

(a) Effects on SOWs. Unless otherwise specified in the termination notice, termination is effective immediately and Contractor will stop work on all applicable SOWs immediately on receipt of the termination notice. Termination of this PSA terminates all outstanding SOWs and all licenses that Boston Dynamics granted under Section 5.1 (Boston Dynamics Background IP and Developed IP) of this PSA.

(b) Effects on Invoices. In accordance with Section 3, Boston Dynamics will pay Contractor for Services and Deliverables invoiced prior to the date of termination. If Boston Dynamics terminates this PSA in accordance with Section 11.4 (Termination for Convenience), Contractor may invoice Boston Dynamics for any Deliverables and work-in-progress not yet invoiced, pro-rated based on the percentage of work completed prior to the termination date. Contractor will immediately deliver all such Deliverables and work-in-progress to Boston Dynamics.

(c) Survival. Sections 1 (Definitions), 3 (Payment), 6 (Confidentiality; Publicity; Privacy and Security), 9 (Defense and Indemnity), 10 (Limitations of Liability), 11.5 (Effects of Termination) and 13 (General) will survive any termination of this PSA.

## **12. Insurance.**

12.1 General. Contractor will maintain adequate insurance as required by law to cover Contractor’s obligations under the Agreement. Coverages will be placed with insurers with an AM Best rating of A-VIII or better. Contractor’s insurance will include a waiver of the insurer’s subrogation rights against Boston Dynamics, unless prohibited by law. Upon request by Boston Dynamics, Contractor will name Boston Dynamics as an additional insured under applicable policies and provide copies of applicable certificates of insurance to Boston Dynamics.

12.2 Minimum Coverages. Contractor will maintain the following minimum coverages:

- (a) commercial general liability insurance in the amount of USD \$1,000,000 per occurrence for bodily injury and property damage;
- (b) employer's liability insurance in an amount of USD \$1,000,000 per occurrence and workers' compensation insurance in accordance with law;
- (c) property insurance for any Boston Dynamics Resources under the control of Contractor, Contractor's affiliates or subcontractors;
- (d) commercial auto liability insurance covering any auto used in or around Boston Dynamics' premises or in the performance of Services;
- (e) umbrella/excess liability insurance in the amount of \$1,000,000 per incident and \$2,000,000 annual aggregate; and
- (f) ~~cyber liability or errors and omissions insurance providing cybersecurity, privacy, and data protection liability coverage of not less than \$5,000,000 per incident.~~

### **13. General.**

#### **13.1 Use of Boston Dynamics Resources.** Unless otherwise agreed in writing:

- (a) the Boston Dynamics Resources are made available to Contractor without warranties of any kind; they are provided "AS-IS" only;
- (b) Contractor will use the Boston Dynamics Resources solely for the purpose of performing its obligations under the Agreement and not to provide services or manufacture product for itself or any of Contractor's other contractors; and
- (c) all rights, title, and interest in and to the Boston Dynamics Resources not expressly granted to Contractor above remain with Boston Dynamics or its licensors, as applicable, and no other licenses are granted hereunder by implication, estoppel, or otherwise.

#### **13.2 Records and Audit Rights.**

- (a) Maintaining Records. Contractor will maintain at all times complete and accurate records relating to the Agreement.
- (b) Right to Examine Deliverables. Boston Dynamics may examine the Deliverables and related work-in-progress at any time.
- (c) Right to Audit Records. During the Term, and for one year after the Agreement terminates, Boston Dynamics may audit Contractor's relevant records to confirm Contractor's compliance with the Agreement. Contractor shall grant Boston Dynamics' auditor with access to only those records reasonably necessary to confirm such compliance. Contractor will repay Boston Dynamics any overcharged amounts as determined in such audit by, at Boston Dynamics' option, either: (i) promptly issuing a credit to Boston Dynamics; or (ii) issuing a refund to Boston Dynamics within 30 days of Boston Dynamics' invoice date. Contractor will reimburse Boston Dynamics for all reasonable audit costs if the overcharged amount for any invoice exceeds 5%.
- (d) Notice of Government Audits. If a government authority audits or proposes to audit any portion of Contractor's business related to the Services or Deliverables, Contractor will

promptly notify Boston Dynamics and provide Boston Dynamics with reasonably-requested information about such audit.

13.3 Notices. All notices of termination or breach of the Agreement must be in English, in writing, and addressed to the alleged breaching Party's legal department as follows: for Boston Dynamics - legal@bostondynamics.com; for Contractor – the electronic mail address set forth on the cover page to this PSA, or any electronic mail or other address provided in writing by either Party to the other Party in accordance with this Section 13.2 (Notices). All other notices or other communication must be in English, in writing, and addressed to the other Party's primary contact for this PSA or applicable SOW. Such notice or other communication can be by electronic mail and will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable).

13.4 Assignment. Contractor may not assign or transfer (whether by operation of law, change of control, or otherwise) the Agreement or any of its rights or obligations under the Agreement, and any attempt to do so is void *ab initio*. Subject to the foregoing in this Section 13.3 (Assignment), the Agreement will be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and assigns.

13.5 Subcontracting. Contractor may not delegate or subcontract any of its obligations under the Agreement without Boston Dynamics' prior written consent. Contractor will remain liable for all subcontracted obligations and all acts or omissions of its subcontractors.

13.6 Force Majeure. Neither Party will be liable for any failure or delay in its performance under the Agreement when such delay is due to any cause or event beyond its reasonable control, including acts of nature, fires, floods, earthquakes, acts of civil or military authorities, pandemics, epidemics, riots, wars, provided that the delayed Party: (a) gives the other Party written notice of such cause within 5 days of the discovery of the event; and (b) uses its best efforts to remedy such delay in its performance. Failure or lateness of Supplier's suppliers, subcontractors, or other contracts will not be deemed a cause beyond the reasonable control of Supplier, unless such failure or lateness was caused by an event that constitutes a "force majeure" hereunder and Contractor gives Boston Dynamics written notice of such cause within 5 days of the discovery of the event, and Contractor uses its best efforts to remedy such delay in its performance. If such performance is delayed for more than 30 days, the Party not experiencing the force majeure event may terminate the applicable SOW or Purchase Order issued under this PSA.

13.7 No Waiver. No waiver of any term or right in the Agreement shall be effective unless in writing, signed by an authorized representative of the waiving Party. Neither Party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under the Agreement.

13.8 Execution. The Parties may execute the Agreement using electronic signatures, electronic copies, and in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument.

13.9 Entire Agreement. This PSA together with all related SOWs and any Exhibits and Schedules attached hereto and thereto, is the Parties' entire agreement with respect to the subject matter hereof and supersedes all other agreements between the Parties as of the Effective Date relating to such subject matter. In entering into the Agreement, neither Party has relied on, and neither Party will have any right or remedy based on, any statement, representation, or warranty (whether made negligently or innocently), except those expressly stated in the Agreement. Any terms or conditions on a quote, invoice, or other similar document from Contractor related to the Agreement are void.

13.10 Amendments. Any amendment to this PSA or any related SOW must be in writing, signed by both Parties, and expressly state that it is amending this PSA or such SOW.

13.11 Severability. If any provision or portion of the Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the rest of the Agreement will remain in full force and effect.

13.12 Order of Precedence. The terms in an SOW will take precedence over conflicting terms in this PSA only for the Services and Deliverables identified in that SOW. The terms of this PSA will take precedence over conflicting terms in a purchase order.

13.13 Construction. The headings/captions appearing in the Agreement have been inserted for the purposes of convenience and ready reference, and do not purport to and shall not be deemed to define, limit or extend the scope or intent of the provisions to which they appertain. References in this PSA to sections or provisions are to sections or provisions of this PSA unless otherwise specified. The Agreement shall not be construed more strongly against either Party regardless of which Party is more responsible for its preparation.

[END OF PSA TERMS]

## Statement of Work No. 001

### Project Name: Spot Curriculum Development

This Statement of Work ("SOW") is issued under the Professional Services Agreement between Boston Dynamics, Inc., a Delaware corporation ("**Boston Dynamics**") and the contractor listed below ("**Contractor**") with an effective date of February 28, 2023 (the "**PSA**").

- A. All terms used but not defined in this SOW have the meanings given to them in the PSA.
- B. The terms in this SOW will take precedence over conflicting terms in the PSA only for the Services and Deliverables under this SOW.
- C. All references to Services and Deliverables below are restricted to the Services and Deliverables under this SOW, and not those under the parties' other SOWs, if any.
- D. Contractor (and its Project Manager) will work with the Boston Dynamics Project Manager listed below.
- E. **NO SERVICES MAY BE PERFORMED UNDER THIS SOW UNTIL BOSTON DYNAMICS AND CONTRACTOR EACH SIGN THIS STATEMENT OF WORK AND BOSTON DYNAMICS ISSUES A VALID PURCHASE ORDER PURSUANT TO THE TERMS OF THIS SOW.**

|                    |                                                                                                                                           |                                                                                                                                                                                           |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Contractor      | <b>Full legal name:</b><br><br><i>Project Manager name:</i><br><br><i>Project Manager telephone:</i><br><br><i>Project Manager email:</i> | Jefferson County Board of Education<br><br>Dr. Tamela Compton<br><br>502.485.8226<br><br><a href="mailto:Tamela.compton@jefferson.kyschools.us">Tamela.compton@jefferson.kyschools.us</a> |
| 2. Boston Dynamics | <i>Project Manager name:</i><br><br><i>Project Manager telephone:</i>                                                                     | Brendan Schulman<br><br>202-733-0231                                                                                                                                                      |



|                                                  | Project Manager email: <a href="mailto:bschulman@bostondynamics.com">bschulman@bostondynamics.com</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |             |          |                 |     |                                     |           |                            |           |
|--------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------|-----------------|-----|-------------------------------------|-----------|----------------------------|-----------|
| 3. "SOW Term"                                    | <p>"SOW Effective Date": The date of the latest signature below.</p> <p>"SOW End Date": December 31, 2023</p> <p>Unless terminated earlier in accordance with the PSA, the SOW Term will begin on the SOW Effective Date and end on the later of:</p> <p>(A) the SOW End Date; and</p> <p>(B) the end of the last Inspection Period under this SOW.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |          |                 |     |                                     |           |                            |           |
| 4. Services, Deliverables and Project Milestones | <p><u>Services</u>: Contractor will perform the following "Services":</p> <p>Contractor will develop a curriculum for the use of Boston Dynamics' Spot robot ("Spot") in high schools and community colleges (the "Curriculum"). The Curriculum shall include instruction related to:</p> <ul style="list-style-type: none"> <li>safe operation of Spot in a high school or community college environment; and</li> <li>obtaining state or federal funding to acquire Spot for use in high schools and community colleges.</li> </ul> <p>The Curriculum shall be of sufficient depth and breadth to allow students in high schools and community colleges to be engaged for at least one semester, either during school hours, or as an after-school elective, for a duration of no less than 90 hours of class time.</p> <p>Contractor represents and warrants that Services will be completed and delivered by Jim Gilbert, Christopher Brown, and Shawn Canaday (the "Instructors").</p> <p>Contractor will report progress to Boston Dynamics every six weeks starting six weeks after the Kickoff Meeting Due Date indicated below.</p> <p><u>Deliverables</u>: Contractor will deliver to Boston Dynamics or its designated representative the "Deliverables" as set forth below.</p> <table border="1"> <thead> <tr> <th>Deliverable</th><th>Due Date</th></tr> </thead> <tbody> <tr> <td>Kickoff Meeting</td><td>TBD</td></tr> <tr> <td>Curriculum (Complete Draft Version)</td><td>3/28/2023</td></tr> <tr> <td>Curriculum (Final Version)</td><td>6/30/2023</td></tr> </tbody> </table> | Deliverable | Due Date | Kickoff Meeting | TBD | Curriculum (Complete Draft Version) | 3/28/2023 | Curriculum (Final Version) | 6/30/2023 |
| Deliverable                                      | Due Date                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |             |          |                 |     |                                     |           |                            |           |
| Kickoff Meeting                                  | TBD                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |             |          |                 |     |                                     |           |                            |           |
| Curriculum (Complete Draft Version)              | 3/28/2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |             |          |                 |     |                                     |           |                            |           |
| Curriculum (Final Version)                       | 6/30/2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |             |          |                 |     |                                     |           |                            |           |
| 5. Fees                                          | <u>Fees</u> : Spot Robot Arm (valued at \$64,000)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |             |          |                 |     |                                     |           |                            |           |



|                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 6. <b>Payment</b>                              | <p><u>Payment:</u></p> <p>After Boston Dynamics' acceptance of the completed Services and Deliverables, title to Equipment in Schedule A of the Equipment Loan Agreement between Boston Dynamics and Contractor effective February 28, 2023 (the "<b>Loan Agreement</b>") will transfer to Contractor, and the Loan Agreement shall terminate upon such transfer subject to the survival of its warranty and limitation of liability provisions.</p> |
| 7. <b>Contractor's License to Developed IP</b> | <p>Subject to Boston Dynamics' acceptance of the completed Services and Deliverables, Boston Dynamics grants to Contractor and the Instructors a limited, irrevocable, non-exclusive, non-transferable, royalty-free, fully-paid license to use the Curriculum for educational purposes.</p>                                                                                                                                                         |
| 8. <b>Publicity</b>                            | <p>Notwithstanding the terms of the PSA, Contractor and Instructors may use Boston Dynamics' logo on the Louisville Centrons' sponsorship banner (and similar signs and banners) for a period of up to one year after Boston Dynamics' acceptance of the completed Services and Deliverables.</p>                                                                                                                                                    |
| 9. <b>Attribution</b>                          | <p>Boston Dynamics in its distribution of the Curriculum shall note the roles of the Contractor and Instructors in the Curriculum's development.</p>                                                                                                                                                                                                                                                                                                 |
| 10. <b>Contractor's Background IP</b>          | <p>The following of Contractor's Background IP will be incorporated in, or is necessary to use, Deliverables provided under this SOW:</p> <p>Not applicable</p>                                                                                                                                                                                                                                                                                      |
| 11. <b>Resources</b>                           | <p>Boston Dynamics will provide the following resources under this SOW, which will remain Boston Dynamics' property (including Intellectual Property):</p> <ul style="list-style-type: none"> <li>• Operator and Safety Training</li> <li>• Application Programming Interface (API) Training</li> </ul>                                                                                                                                              |

**[Signature page follows.]**

***If you are signing on behalf of your company, you represent and warrant that you:***

***(1) have full legal authority to bind your company to these terms and conditions;***

***(2) have read and understood this SOW; and***

***(3) agree to this SOW on behalf of your company.***

***If you do not have the legal authority to bind your company, do not sign the signature box below.***

Signed by the parties' authorized representatives on the dates below.

**Boston Dynamics, Inc.:**

**Contractor:**

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_  
(Authorized Signature)

Name: \_\_\_\_\_  
(Printed Name)

Name: Dr. Marty Pollio  
(Printed Name)

Title: \_\_\_\_\_

Title: Superintendent

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **EQUIPMENT LOAN AGREEMENT**

This Equipment Loan Agreement (this "**Agreement**") is entered into as of February 28, 2023 (the "**Effective Date**") by and between Boston Dynamics, Inc., a Delaware corporation located at 200 Smith Street, Suite 4100, Waltham, Massachusetts 02451 ("**Owner**") and Jefferson County Board of Education, a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 ("**Borrower**"). Owner and Borrower are sometimes referred to herein together as the "**Parties**" and each, a "**Party**."

**WHEREAS**, Owner desires to loan to Borrower certain equipment described below and Borrower desires to take delivery of and use said equipment as set forth below.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter contained, the Parties, intending to be legally bound, have agreed, and do hereby agree as follows:

### **1. DELIVERY AND USE.**

1.1. Owner agrees to loan to Borrower, upon the terms and conditions of this Agreement, at no monetary cost to Borrower, in accordance with the shipping terms set forth on Schedule A, the equipment set forth on Schedule A (the "**Equipment**"), for the use set forth in Schedule A (the "**Purpose**").

1.2. Borrower shall only use the Equipment for the Purpose in accordance with this Agreement and any user guide or other instructions provided for the Equipment. Borrower shall be responsible for the safety and protection of all persons and property that will in any way have contact with the Equipment. Borrower shall observe and comply with all safety rules and regulations pertaining to the Equipment.

### **2. TERM; TERMINATION.**

2.1. The term of this Agreement shall commence on the Effective Date and continue for one year thereafter, unless sooner terminated in accordance with this Section 2 (TERM; TERMINATION) (the "**Term**").

2.2. This Agreement may be terminated at any time by Owner upon written notice to Borrower if Borrower fails to meet its obligations under this Agreement or under the Professional Services Agreement between Owner and Borrower, effective February 28, 2023 (the "**PSA**"). Upon any such termination, Borrower shall return all Equipment to Owner within ten days of such termination.

2.3. No termination (whether by default or the passage of time) shall affect the rights of Owner or the liabilities of Borrower relating to (a) any event occurring prior to the effective date of such termination or (b) any of the undertakings, agreements, covenants, indemnifications, representations or warranties of Borrower contained in this Agreement. All such undertakings, agreements, covenants, indemnities, representations, and warranties of Borrower shall survive such termination and Owner shall retain all of its rights and remedies under this Agreement.

3. **TITLE; LIENS.** The Equipment is and shall remain the sole property of Owner, and Owner may require markings to be placed on the Equipment, or the execution by Borrower of UCC financing statements indicating and providing notice of Owner's interest therein. Borrower shall keep the Equipment free from

any encumbrance or lien that may in any way affect Owner's right, title or interest in and to the Equipment.

4. **BORROWER COVENANTS**. Borrower agrees that during the Term it shall: (a) maintain the Equipment in good repair, condition and working order in accordance with the instructions provided by Owner; (b) not, directly or indirectly, attempt to decompile, disassemble, reverse engineer, copy, or clone any Equipment; (c) not make any changes or alterations to the Equipment without Owner's prior written authorization; (d) pay all shipping and delivery charges and other expenses incurred in connection with shipping the Equipment, except as otherwise agreed to in writing by the Parties; and (e) comply with all laws, regulations, requirements and rules applicable to its use of the Equipment.
5. **RISK OF LOSS, DAMAGE AND THEFT**. Any damage, loss, injury, deterioration or theft of the Equipment, howsoever caused (excluding only normal wear and tear) while in the care, custody and control of Borrower shall be the sole obligation of Borrower. In such event, Borrower shall immediately notify Owner and shall immediately be liable to Owner for the fair market value of the Equipment.
6. **DISCLAIMER OF WARRANTIES**. It is expressly understood and agreed that the Equipment is made temporarily available to Borrower on an "AS IS - WHERE IS" basis. Owner does NOT warrant that the Equipment is either MERCHANTABLE or FIT FOR ANY PARTICULAR PURPOSE, and Owner hereby expressly disclaims all warranties (except as to title) with respect thereto.
7. **INDEMNIFICATION**. To the extent permitted by law, Borrower agrees to defend, indemnify and hold harmless Owner from any and all claims, suits, actions, proceedings, losses, costs, expenses (including reasonable attorneys' fees), or liabilities of whatever nature (including without limitation by way of strict liability) arising out of or in any way connected with this Agreement or with Borrower's possession, operation or use of the Equipment or from any other cause including the alleged condition of the Equipment. This indemnity shall specifically cover, but is not limited to, claims alleging liability as a result of damage to property and/or death or bodily injury to any person (including employees of Borrower).
8. **INSURANCE**. Borrower shall maintain in full force and effect throughout the Term Commercial General Liability insurance in such amounts and with such carriers as may be acceptable to Owner. Said insurance policy shall include broad form contractual liability coverage in order to insure Borrower's obligations under Article 7 of this Agreement and said policy shall be endorsed to include Owner as an additional insured on a primary and non-contributory basis, with a waiver of subrogation against Owner. All deductibles and self-insured retention (if any) shall be the sole responsibility of Borrower. Borrower shall, prior to taking delivery of the Equipment, provide to Owner a satisfactory Certificate of Insurance evidencing full compliance with this Article. In the event that Borrower or its insurance carrier defaults on any obligations under Articles 7 or 8 of this Agreement, Borrower agrees that it will be liable for all reasonable expenses and attorneys' fees incurred by Owner to enforce the provisions of Articles 7 and/or 8.
9. **GOVERNING LAW**. All claims arising out of or related to this Agreement will be governed by Massachusetts law, excluding Massachusetts' conflict of laws rules that would cause the application of the laws of any jurisdiction other than Massachusetts, and will be litigated exclusively in the federal or state courts of Middlesex County, Massachusetts, U.S.A.; both Parties hereby submit to the exclusive jurisdiction and venue of any such court. The Parties further agree, to the extent permitted by applicable law, to waive any right to trial by jury with respect to any claim, counterclaim or action arising from the terms of the

Agreement.

**10. ASSIGNMENT.** Borrower may not transfer or assign this Agreement without Owner's prior written consent. Any such attempted transfer or assignment shall be null and void.

**11. ENTIRE AGREEMENT.** This Agreement, together with the Professional Services Agreement, constitute the entire agreement between the Parties relating to the subject matter hereof. The terms of this Agreement shall not be altered, amended, modified, or supplemented in any manner whatsoever except by written instrument signed by Owner and Borrower. This Agreement is binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

**12. EXECUTION.** The Parties may execute this Agreement using electronic signatures, electronic copies, and in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument.

**IN WITNESS WHEREOF,** the Parties, pursuant to due corporate authority, have caused this Agreement to be signed in their respective corporate names as of the date first above written.

SIGNED BY THE PARTIES' AUTHORIZED REPRESENTATIVES ON THE DATES BELOW.

**Boston Dynamics, Inc.:**

**Jefferson County Public Schools:**

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_  
(Authorized Signature)

Name: \_\_\_\_\_  
(Printed Name)

Name: Dr. Marty Pollio  
(Printed Name)

Title: \_\_\_\_\_

Title: Superintendent

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **SCHEDULE A**

### Equipment:

Spot Robot Arm

### Purpose:

The Equipment is to be used only for providing the Services and Deliverables set forth in Section 4 (Services, Deliverables and Project Milestones) of Statement of Work No. 001 to the PSA.

### Shipping:

Boston Dynamics will pay shipping costs associated with delivery and return of the Equipment.