

## CONSENT AND NOVATION AGREEMENT

This CONSENT AND NOVATION AGREEMENT (“Agreement”) dated as of June 25, 2021 (“Effective Date”), is entered into by and among First Transit, Inc., a Delaware corporation (“First Transit”), FirstGroup Management, Inc., a Delaware corporation (“FGMI”), and the Duluth Transit Authority (“DTA”).

**WHEREAS**, on or about December 9, 2016, First Transit and DTA entered into a Management Agreement, as amended, restated, supplemented or otherwise modified from time to time, to include the June 25, 2021 Amendment to Management Agreement, attached hereto (the “Management Agreement”). As set forth in the Management Agreement, First Transit formed a separate wholly owned corporation, ATE Management of Duluth, Inc. (the “SPV”) to, among other duties, serve as the employer of all employees necessary for the operation of the DTA transit system.

**WHEREAS**, FGMI has proposed that the Management Agreement and certain other contracts in the First Transit portfolio be assigned to FGMI and that ownership of the SPV be transferred to FGMI.

**WHEREAS**, as a result, First Transit desires to assign to FGMI all of First Transit’s rights and delegate to FGMI all of First Transit’s obligations under the Management Agreement and transfer the SPV to FGMI as of the Effective Date.

**WHEREAS**, FGMI desires to accept such assignment of rights and delegation of obligations under the Management Agreement, and

**WHEREAS**, DTA desires to release First Transit from its obligations under the Management Agreement and substitute FGMI as a party to the Management Agreement in First Transit’s place.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions set out herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment and Assumption.

1.1 Assignment. First Transit irrevocably assigns, grants, conveys and transfers to FGMI all of First Transit’s right, title and interest in and to the Management Agreement effective as of the Effective Date.

1.2 Assumption. FGMI unconditionally accepts such assignment effective as of and from the Effective Date and assumes all of First Transit’s past, present and future duties, liabilities and obligations (whether known or unknown, contingent or otherwise) under the Management Agreement, and agrees to pay, perform and discharge, as and when due, all of First Transit’s obligations under the Management Agreement.

1.3 Consent. Effective as of the Effective Date, DTA hereby consents to the assignment and assumption of First Transit's duties, liabilities and obligations under the Management Agreement to FGMI, subject to the terms contemplated herein.

2. Novation.

2.1 Release. Notwithstanding anything to the contrary in the Management Agreement, DTA releases and forever discharges First Transit, as well as its affiliates, shareholders, directors, officers, employees, agents, successors, purchasers and representatives, from all obligations arising under the Management Agreement, and from any and all liability as a consequence of or relating to all manner of actions, causes of action, suits, debts, damages, expenses, claims and demands whatsoever at law or in equity that DTA has or may have against any of the foregoing persons, arising out of or in any way connected to performance under the Management Agreement on or before the Effective Date and on or after the Effective Date and the assignment, assumption and substitution contemplated by this Agreement.

2.2 Substitution. The parties intend that this Agreement is a novation and that FGMI be substituted for First Transit. FGMI by this Agreement becomes entitled to all right, title and interest of First Transit in and to the Management Agreement in as much as FGMI is the substituted party to the Management Agreement. DTA and FGMI shall be bound by the terms of the Management Agreement in every way as if FGMI were named in the novated Management Agreement in place of First Transit as a party thereto.

3. Representations and Warranties.

3.1 Assigning Party's Representations and Warranties. First Transit represents and warrants as follows:

(a) It has all necessary corporate power and authority to enter into this Agreement and to perform its obligations hereunder.

(b) It has taken all necessary corporate action to authorize the execution of this Agreement by its representative whose signature is set out at the end hereof.

(c) When executed and delivered by it, this Agreement will constitute the legal, valid and binding obligation of First Transit, enforceable against it in accordance with its terms.

3.2 FGMI's Representations and Warranties. FGMI represents and warrants as follows:

(a) It has all necessary corporate power and authority to enter into this Agreement and to perform its obligations hereunder.

(b) It has taken all necessary corporate action to authorize the execution of this Agreement by its representative whose signature is set out at the end hereof.

(c) When executed and delivered by it, this Agreement will constitute the legal, valid and binding obligation of FGMI, enforceable against it in accordance with its terms.

3.3 DTA Representations and Warranties. DTA represents and warrants as follows:

(a) It has all necessary corporate power and authority to enter into this Agreement and to perform its obligations hereunder.

(b) It has taken all necessary corporate action to authorize the execution of this Agreement by its representative whose signature is set out at the end hereof.

(c) When executed and delivered by it, this Agreement will constitute the legal, valid and binding obligation of DTA, enforceable against it in accordance with its terms.

4. Miscellaneous.

4.1 Further Assurances. On a party's reasonable request, each other party shall, at its sole cost and expense, execute and deliver all such further documents and instruments, and take all such further acts, necessary to give full effect to this Agreement.

4.2 Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by registered or certified mail, postage prepaid, or by reputable overnight courier service, or by electronic mail with acknowledgment of receipt of complete transmission further confirmed by a copy sent by reputable overnight courier service. Any notice or other communication so given shall be validly given hereunder upon receipt if delivered by hand, upon receipt if sent by registered or certified mail or by overnight courier service, and upon return receipt if sent by electronic mail to the addresses set forth below or to such other address as the person to whom notice is given may have previously furnished to the others in writing in the manner set forth above. Rejection or other refusal to accept or the inability for delivery to be effected because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

If to First Transit, to:

First Transit, Inc.  
c/o FirstGroup America, Inc.  
Suite 1400  
600 Vine Street  
Cincinnati, OH 45202-2426  
Attn: General Counsel

If to FGMI, to:

FirstGroup plc  
8th Floor, The Point  
37 North Wharf Road  
London W2 1AF

Attention: David Isenegger  
Email: [David.Isenegger@firstgroup.com](mailto:David.Isenegger@firstgroup.com)

If to DTA, to:

Duluth Transit Authority  
2402 West Michigan Street  
Duluth, MN 55806  
E-mail: [rfournier@duluthtransit.com](mailto:rfournier@duluthtransit.com)  
Attention: General Manager

4.3 Interpretation. For purposes of this Agreement: (a) the words “include,” “includes” and “including” is deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references in this Agreement: (x) to sections, schedules and exhibits mean the sections of, and schedules and exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The parties drafted this Agreement without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The schedules and exhibits referred to herein are an integral part of this Agreement to the same extent as if they were set out verbatim herein.

4.4 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

4.5 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability does not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. On such determination that any term or other provision is invalid, illegal or unenforceable, the parties to this Agreement shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

4.6 Entire Agreement. This Agreement and the Management Agreement, together with all related exhibits and schedules, constitute the sole and entire agreement of the parties hereto regarding the subject matter contained herein and therein, and supersedes all prior and

contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter.

4.7 Amendment and Modification. No amendment to this Agreement is effective unless it is in writing, identified as an amendment to this Agreement and signed by an authorized representative of each party to this Agreement.

4.8 Waiver.

(a) No waiver under this Agreement is effective unless it is in writing and signed by an authorized representative of the party waiving its right.

(b) Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion.

(c) None of the following is a waiver or estoppel of any right, remedy, power, privilege or condition arising from this Agreement:

(i) any failure or delay in exercising any right, remedy, power or privilege or in enforcing any condition under this Agreement; or

(ii) any act, omission or course of dealing between the parties.


4.9 Choice of Law. This Agreement, and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by the internal laws of the State of Minnesota, without regard to Minnesota's conflicts of law provisions.

4.10 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together is deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.


[SIGNATURE PAGE FOLLOWS]

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


**FIRSTGROUP MANAGEMENT, INC.**

By:   
Name: Michael Petrucci  
Title: Secretary

**FIRST TRANSIT, INC.**

By:   
Name: Nick Promponas  
Title: Senior Vice President

**DULUTH TRANSIT AUTHORITY**

By:   
Name: Rod Fowler  
Title: General Manager