

The Corporation of the Municipality of Brockton



By-Law 2022-101

Being a By-Law to Authorize the Signing of a Tri-Party EV Charging Station Co-Operative Agreement With Westario Power Inc. and Bruce Power L.P. for the Purpose of Installing EV Charging Stations within the Municipality of Brockton.

Whereas The Council for the Corporation of the Municipality of Brockton deems it expedient to enter into an agreement with Westario Power Inc. and Bruce Power L.P. for the purpose of formalizing, among other things, Westario Power's and Bruce Power's commitments to facilitate and partially fund the installation of one or more EV Charging Stations within the Municipality of Brockton;

And Whereas the Corporation of the Municipality of Brockton desires to enter into an Tri-Party EV Charging Station Co-Operative Agreement with Westario Power Inc. and Bruce Power L.P.;

Now Therefore the Council of the Corporation of the Municipality of Brockton enacts as follows;

- 1.0 That the Corporation of the Municipality of Brockton Council hereby enter into an agreement with Westario Power Inc. and Bruce Power L.P. which is attached as "Schedule A" and forms part of this By-Law.
- 2.0 That the Corporation of the Municipality of Brockton Council hereby enter into a Master Services and Subscription Agreement with Chargepoint attached as Schedule "B" and a Service Agreement with Chargepoint attached as "Schedule c" and forming part of this By-Law.
- 3.0 That the Mayor and Clerk be authorized to sign the agreements between the Corporation of the Municipality of Brockton and Westario Power Inc. and Bruce Power L.P. and Chargepoint as attached.
- 4.0 This By-Law shall come into full force and effect upon final passage.
- 5.0 This By-Law may be cited as the "Westario/Bruce Power EV Charging Station Co-Operative Agreement By-Law".

Read, Enacted, Signed and Sealed this 21st day of June, 2022.

Mayor – Chris Peabody

Director of Legislative and Legal Services (Clerk) –
Fiona Hamilton

TRI-PARTY EV CHARGING STATION CO-OPERATION AGREEMENT

This Tri-Party EV Charging Station Co-Operation Agreement (the “**Agreement**”), is entered into as of the 21st day of June, 2022 (the “**Effective Date**”)

BETWEEN

WESTARIO POWER INC., a corporation incorporated under the laws of the Province of Ontario, and having its principal place of business at RR #2, 24 Eastridge Rd Walkerton, Ontario N0G 2V0 (“**Westario Power**”)

and

BRUCE POWER L.P., a limited partnership existing under the laws of the Province of Ontario, and having its principal place of business at Building B10, 177 Tie Road, Municipality of Kincardine, R.R. #2, Tiverton, Ontario NOG 2T0 (“**Bruce Power**”)

and

CORPORATION OF THE MUNICIPALITY OF BROCKTON, a municipal corporation incorporated pursuant the *Municipal Act, 2001* (Ontario) and existing under the laws of the Province of Ontario, and having its principal place of business at 100 Scott Street, P.O. Box 68, Walkerton, Ontario N0G 2V0 (the “**Municipality**”)

(The foregoing hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**”.)

Context

- A. Bruce Power operates the Bruce A and Bruce B CANDU nuclear generating stations located near Tiverton, Ontario (the “**Bruce Site**”).
- B. Westario Power is a municipally-owned electrical distribution company that ensures the safe, reliable delivery of electricity to the customers it serves, including in the Municipality.
- C. The Municipality is located within the service area of Westario Power and is interested in exploring opportunities for increasing electric-vehicle charging services to its residents and visitors.
- D. Westario Power and Bruce Power wish to lead an initiative to increase the number of Level 2 electric vehicle charging stations (“**EV Charging Stations**”) at municipally-owned public spaces within Westario Power’s service area, including the Municipality, with a view to assisting these municipalities, including the Municipality, in preparing for increasingly heavier electric vehicle traffic in the region and contributing towards Canada’s goal of reaching net-zero emissions by 2050.

- E. The Parties wish to enter into this Agreement to formalize, among other things, Westario Power's and Bruce Power's commitments to facilitate and partially fund the installation of one or more EV Charging Stations within the Municipality and to set out the respective obligations of the Parties in respect thereof.

NOW, THEREFORE, the Parties agree as follows:

1. Westario Power and Bruce Power Obligations

- (a) Westario Power agrees to provide, at its own cost, but subject to Section 2(c), the following services to the Municipality in connection with the installation of an EV Charging Station located within the Municipality ("**Westario Services Costs**"):
- (i) project management services for the installation of the EV Charging Station, including site evaluations, recommendations and a cost estimate for site preparations, provided that the final site selection will be at the discretion of the Municipality;
 - (ii) connection of the EV Charging Station to the Westario Power distribution system; and
 - (iii) any necessary interfacing with ChargePoint Canada, Inc. ("**ChargePoint**"), which will be providing the EV Charging Station for use by the Municipality, to facilitate the successful installation of the EV Charging Station in the location chosen by the Municipality;
- (b) Bruce Power agrees to prepare, at its expense, a marketing plan for the EV Charging Station specific to the Municipality and will arrange for the logos or other branding of Westario Power and Bruce Power (or, at the discretion of Bruce Power, the logo of Bruce Power Net Zero) to be included on each of the installed EV Charging Stations.
- (c) The Parties agree and acknowledge that any preparation of any chosen site for the installation of the EV Charging Station, which preparation may involve such activities as electrical service upgrades, the installation of conduit runs, the running of wiring, the installation of cell repeaters, ensuring cellular coverage and other site work necessary to provide adequate power and connectivity to the EV Charging Station (collectively, the "**Site Preparation Activities**"), will be the responsibility of the Municipality, and neither Westario Power nor Bruce Power shall be responsible to cover any such costs, except as set out in Section 2 below. Upon receiving any estimate of the cost of the Site Preparation Activities, the Municipality shall have the sole discretion to decide whether or not it wishes to proceed with the installation of the EV Charging Station and the execution of the ChargePoint Contracts (as defined below).

2. Bruce Power and Westario Power Funding Commitments

- (a) For the first EV Charging Station installed within the Municipality, Bruce Power and Westario Power agree to pay the Municipality an aggregate amount up to \$5,000 (which portion, in the case of Westario Power, will also include any of its Westario Services Costs) to defer some of its costs. Any funding by Bruce Power and/or Westario Power for any additional EV Charging Station(s) installed within the Municipality, at its request, will be at the discretion of Bruce Power and Westario Power and must be confirmed in advance in writing by such Party or Parties. Each of Bruce Power and Westario Power may consider, in its determination of whether or not to fund any additional EV Charging Station(s) within the Municipality, such considerations that it deems relevant, including the proposed location of the EV Charging Station(s), the anticipated cost of such additional EV Charging Station(s) and commitments of that Party for the funding of EV Charging Stations in other municipalities. The exact amount of contribution owing by each of Bruce Power and Westario Power will be determined in accordance with paragraph (c) below. An EV Charging Station with dual or multiple ports will be considered to be a single EV Charging Station for purposes of this Agreement.
- (b) Any payments to the Municipality hereunder will be subject to the Municipality entering into full-service three-year or five-year contracts with ChargePoint, specifically, the “ChargePoint as a Service Agreement” and the “ChargePoint Master Services and Subscription Agreement” (collectively, the “**ChargePoint Contracts**”) on or before July 1, 2022 (the “**Contract Deadline**”) and will be paid to the Municipality, through electronic funds transfer or such other method as the Parties and the Municipality may reasonably agree, within 30 days of the Municipality providing a copy of the ChargePoint Contracts to Bruce Power and Westario Power (or such other documentation evidencing the execution of such ChargePoint Contracts as Bruce Power and Westario Power may reasonably require). Neither Bruce Power nor Westario Power shall have any obligations to provide any funding under this Section 2 if the Municipality doesn’t enter into the ChargePoint Contracts by the Contract Deadline and providing evidence of same to Bruce Power and Westario Power, subject to any decision by Bruce Power and Westario Power to extend the Contract Deadline.
- (c) With respect to the first installation of an EV Charging Station within the Municipality, if the aggregate cost for (i) the Site Preparation Activities and (ii) the fee charged by ChargePoint to the Municipality under the ChargePoint Contract in respect of such EV Charging Station for its installation and for the first year of operation and maintenance costs (the costs in clauses (i) and (ii) collectively referred to as the “**Initial Costs**”) are equal to or greater than \$5,000 (exclusive of HST), then Bruce Power and Westario Power will contribute \$2,500 each toward the Initial Costs, provided that in respect of Westario Power, its contribution of \$2,500 will be net of any of its applicable Westario Services Costs for such first installation. If the Initial Costs are less than \$5,000 (exclusive of HST), then Bruce Power and Westario Power will each contribute one-half of the total Initial Costs

(with Westario Power's contribution being net of any of its applicable Westario Services Costs). With respect to any additional installation of an EV Charging Station within the Municipality, if both Bruce Power and Westario Power have agreed in writing to provide funding for the Initial Costs of such additional EV Charging Station(s), then the cost-sharing arrangement set forth above for the first installation shall apply to such additional EV Charging Station(s). If Westario Power chooses not to fund one or more additional EV Charging Stations and/or any of the Westario Services Costs and Bruce Power chooses to do so, if the Initial Costs of each such additional EV Charging Station that Bruce Power agrees to fund are equal to or greater than \$2,500 (exclusive of HST), then Bruce Power will contribute \$2,500 toward the Initial Costs, and if the Initial Costs are less than \$2,500 (exclusive of HST), then Bruce Power will contribute the total Initial Costs. No HST will be added to the funding contributions made by Bruce Power or Westario Power. The payments by Bruce Power and Westario Power hereunder are several payment obligations and not joint and several payment obligations.

3. Municipality's Obligations

- (a) As a pre-condition to receiving funding from Bruce Power and Westario Power as set forth above in Section 2, the Municipality agrees to enter into the ChargePoint Contracts. The Municipality shall, in negotiating with ChargePoint, require the inclusion in the applicable ChargePoint Contract(s) of the ability of the Municipality to share with Bruce Power an electronic monthly station report that sets out key metrics in respect of the EV Charging Station(s) (the "**Report**") or for ChargePoint to deliver a copy of such Report to Bruce Power at the same time that it provides a copy to the Municipality or otherwise provide Bruce Power with electronic access to such Report. If ChargePoint cannot deliver a copy of the monthly Report to Bruce Power directly, the Municipality agrees that it will provide a copy of each Report to Bruce Power promptly after it receives a copy from ChargePoint. The obligation for the Municipality to provide Bruce Power with a copy of, or access to, the Report shall be for the duration of the initial term of the ChargePoint Contracts, and this obligation shall survive termination or expiry of this Agreement.
- (b) The Municipality shall be responsible for all charges and obligations it incurs in connection with the Site Preparation Activities and under the ChargePoint Contracts, subject to Bruce Power's and Westario Power's obligations to provide funding under Section 2.
- (c) The Municipality acknowledges that the cost of electricity supplied through the EV Charging Stations will be to the account of the Municipality and that neither Westario Power nor Bruce Power will have any responsibility to cover or reimburse such costs.
- (d) For the first year of the ChargePoint Contract, the Municipality agrees that it will not charge users of the EV Charging Station for the cost of electricity, provided that for the second and subsequent years of the ChargePoint Contract, the Municipality

may charge electricity consumed through the EV Charging Station at reasonable market rates.

- (e) The Municipality agrees that each of Westario Power and Bruce Power shall have the right to include their respective logos on or near the EV Charging Station (or, at the discretion of Bruce Power, the logo of Bruce Power Net Zero) during the initial term of the ChargePoint Contracts.
- (f) The Municipality is entitled to choose the location of the EV Charging Station but agrees that any EV Charging Station that is installed and partially funded by Bruce Power and/or Westario Power under this Agreement will be located within the Municipality in a high-volume, public-use location.

4. **Liability Exclusions**

Notwithstanding any other provision of this Agreement, in no event shall either Party be liable to the other Party, whether arising under contract, tort (including negligence), strict liability, or otherwise for loss of anticipated profits, or for any special, incidental or consequential loss or damage arising in connection with the performance or non-performance of this Agreement.

5. **Confidentiality and Limit of Use of Information**

- (a) Each Party may, in its sole discretion, disclose Confidential Information (as hereinafter defined) to the other Party in furtherance of the objectives of this Agreement. Nothing herein shall require any Party to disclose any particular data or information whether or not it is part of the Confidential Information.
- (b) Confidential Information that is provided by a Party (the “**Disclosing Party**”) and all rights in and to such Confidential Information shall remain the property of the Disclosing Party and shall be held by the other Party or Parties (the “**Receiving Party**”) for the benefit of the Disclosing Party. The Receiving Party shall not, directly or indirectly, use, exploit or disclose such Confidential Information to any third party, for any purpose unless so authorized hereunder or in writing by the Disclosing Party. Disclosure or use of the Confidential Information by the Receiving Party in breach of this Agreement may cause the Disclosing Party irreparable harm for which ordinary damages are not an adequate remedy and the Disclosing Party may, in the discretion of a court of competent jurisdiction, be entitled to specific performance or injunctive relief for such breach, and such remedies shall be in addition to all other remedies that the non-breaching Party may be entitled to at law or in equity. Notwithstanding the foregoing, if the Municipality reasonably believes that it is required by applicable law, including the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario), to disclose Confidential Information of a Disclosing Party, it shall, to the extent permitted by applicable law, notify the Disclosing Party of such requirement to enable to Disclosing Party to make appropriate detailed representations to the Municipality about the nature of the information and why it should not be disclosed.

- (c) “**Confidential Information**” means all information in whatever form (whether written or oral), which is made available to the Receiving Party, directly or indirectly, in connection with this Agreement by the Disclosing Party, which is either confidential, proprietary or otherwise not generally available to the public (including any document, electronic record, note, extract or analysis recalling or recording information which is or derives from Confidential Information), but excludes information that (a) at the time of disclosure to the Receiving Party is in the public domain; (b) after disclosure to the Receiving Party becomes generally available to third parties by publication or otherwise through no breach of this Agreement by the Receiving Party; (c) was lawfully in the possession of the Receiving Party prior to disclosure, as evidenced by the written records of the Receiving Party and which was not acquired, directly or indirectly, from the Disclosing Party in connection with this Agreement; or (d) becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party if such source was not to the knowledge of the Receiving Party subject to any prohibition against transmitting the information to the Receiving Party and was not, to the knowledge of the Receiving Party bound by a confidentiality agreement with the Disclosing Party.
- (d) The Parties shall not make any public announcement or release pertaining to the existence of this Agreement or the subject matter contained herein without the prior written consent of each of the Parties. However, if a public announcement is required by law or applicable regulation, the affected Party shall notify the other Party and cooperate with them, consistent with legal requirements regarding the content and form of the notice. No prior written consent shall be required for any such legally required public announcement or disclosure.
- (e) No Party will acquire any right, title or interest in intellectual or proprietary property (in whatever form) that is (i) owned or possessed by the other Party prior to the date of this Agreement or independently acquired or developed thereafter or (ii) shared with such Party in connection with this Agreement. Any intellectual or proprietary property that is shared with the other Party shall be treated as Confidential Information in accordance with the terms of this Section 5.

6. **Term**

This Agreement shall become effective on the Effective Date and will continue for a term of one (1) year following the commissioning of the EV Charging Station or, if more than

one station is installed, one (1) year following the commissioning of the last EV Charging Station installed under this Agreement.

7. **Notices**

- (a) Any and all notices, demands, consents, approvals, requests, or other communications which any Party may desire or be required to give under this Agreement (“**Notices**”) shall be by personal delivery, by overnight courier, by prepaid certified mail, or by electronic mail to the other Party at its address below or such other address as each Party may designate to the other by providing a Notice.

If to Bruce Power:

Bruce Power L.P.
Bldg. B10, P.O. Box 1540
177 Tie Road
Municipality of Kincardine
R.R. #2
Tiverton, Ontario N0G 2T0

Attention: Chief Development Officer & Executive Vice President
Operational Services

Email: james.scongack@brucepower.com

with a copy to:

Attention: Vice President, Strategy & Chief Legal and Risk Officer

Email: generalcounsel@brucepower.com

If to Westario Power:

Westario Power
24 Eastridge Road
Walkerton, Ontario N0H 2L0
Attention: President & Chief Executive Officer
Email: jenny.alfandary@westariopower.com

If to the Municipality:

Municipality of Brockton
100 Scott Street, P.O. Box 68
Walkerton, Ontario N0G 2V0
Attention: Sonya Watson, Chief Administrative Officer
Email: swatson@brockton.ca

- (b) A Notice sent in compliance with the provisions of this section shall be deemed delivered two business days after dispatch except in the case of certified mail, in which case it shall be deemed delivered five business days after mailing.

8. General

- (a) This Agreement sets forth the entire understanding of the Parties with respect to the matters described herein and therein and supersedes all prior agreements, written or oral. This Agreement can be amended or extended only by written agreement signed by the Parties.
- (b) Each Party shall solely bear and pay its own legal, accounting and other costs, charges and expenses in connection with the negotiation, preparation and implementation of this Agreement and any other agreement incidental to this Agreement.
- (c) The application of this Agreement shall be limited to matters specifically dealt with herein. The Parties shall continue to operate independently of one another (including dealing with third parties) in regard to all matters.
- (d) Each Party shall comply with any and all applicable laws, regulations, rules, ordinances, notifications, guidelines, policies, directives, judgments and orders of any legislative and/or executive or other applicable governmental bodies in any jurisdiction related to work under this Agreement.
- (e) Nothing in this Agreement shall be construed to make or constitute the Parties partners, joint venturers, employees, or employers of the other, or either deemed the agent of the other in any respect. Neither Party shall have the right or authority to make any promise, guarantee, warranty, or representation, or to assume, create, or incur any liability or other obligation of any kind, express or implied, against or in the name of, or on behalf of, the other, except as described in this Agreement.
- (f) This Agreement shall be governed by and construed in accordance with the substantive laws of the Province of Ontario, Canada without regard to any conflict of laws rules that might indicate the applicability of the laws of any other jurisdiction. Any judicial proceeding brought arising out of or related to this shall be brought in the provincial courts having within their venue Ontario, Canada. In any such proceeding the Parties hereby waive any objection they may have based on lack of personal jurisdiction, improper venue, or inconvenient forum.
- (g) Any dispute arising out of or in connection with this Agreement that is not settled by negotiation of the Parties shall be finally settled in accordance with the *Arbitrations Act, 1991* (Ontario). Notwithstanding the foregoing, each Party has the right at any time, at its option and where legally available, to commence an action or proceeding in a court of competent jurisdiction to apply for interim or conservatory measures, but not monetary damages. If either Party is successful in

obtaining injunctive relief, the losing Party agrees to be responsible for paying all of the winning Party's expenses in seeking such relief, including all costs of bringing suit and all reasonable legal fees.

- (h) This Agreement may be executed in counterparts. Each Party may deliver an executed copy of this Agreement in original or electronic form, and the Parties adopt any signatures (including electronic signatures) received in pdf. format by e-mail or other means of electronic communication as original signatures of the Parties.

Signature Page Follows.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the Effective Date first written above.

WESTARIO POWER INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

BRUCE POWER L.P. by its general partner, BRUCE POWER INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

CORPORATION OF THE MUNICIPALITY OF BROCKTON

By: _____
Name: Chris Peabody
Title: Mayor

By: _____
Name: Fiona Hamilton
Title: Director of Legislative and Legal Services
(Clerk)

CHARGEPOINT®
MASTER SERVICES AND SUBSCRIPTION AGREEMENT

IMPORTANT: THIS MASTER SERVICES AND SUBSCRIPTION AGREEMENT IS A LEGAL AGREEMENT BETWEEN YOU OR THE CORPORATION, PARTNERSHIP OR OTHER LEGAL ENTITY YOU REPRESENT (“SUBSCRIBER”) AND CHARGEPOINT, INC., A DELAWARE CORPORATION (“CPI”). PLEASE READ IT CAREFULLY. BY USING ANY OF THE CHARGEPOINT SERVICES, YOU INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT. IF YOU DO NOT AGREE WITH ANY OF THESE TERMS AND CONDITIONS, DO NOT USE ANY CHARGEPOINT SERVICES.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A CORPORATION, PARTNERSHIP OR OTHER LEGAL ENTITY, THAT ENTITY REPRESENTS THAT YOU HAVE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, YOU MAY NOT ENTER INTO THIS AGREEMENT AND SUCH ENTITY MAY NOT USE THE CHARGEPOINT SERVICES.

1. AGREEMENT.

1.1 SCOPE OF AGREEMENT. This Agreement governs the following activities:

- (a) Provisioning of Subscriber’s Charging Station(s), if any, on ChargePoint;
- (b) Activation and use of the ChargePoint Services on Subscriber’s Charging Station(s), if any;
- (c) Subscriber’s use of the APIs as part of the ChargePoint Services;
- (d) Each grant of Rights by Subscriber; and
- (e) Each grant of Rights by a third party to Subscriber.

1.2 EXHIBITS AND PRIVACY POLICY. This Agreement includes the CPI [Privacy Policy](#), as amended from time to time, and the following Exhibits, which are made a part of, and are hereby incorporated into, this Agreement by reference.

- Exhibit 1: Flex Billing Terms
- Exhibit 2: API Terms
- Exhibit 3: Terms Regarding Granting and Receipt of Rights

In the event of any conflict between the terms of this Agreement on the one hand, and the Privacy Policy or any Exhibit on the other hand, this Agreement shall govern. Capitalized terms not otherwise defined in any Exhibit or the Privacy Policy shall have the same meaning as in this Agreement.

2. DEFINITIONS. The following terms shall have the definitions set forth below when used in this Agreement:

2.1 “Affiliate” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control”, for purposes of this definition, means direct or indirect ownership or control of fifty percent (50%) or more of the voting interests of the subject entity.

2.2 “APIs” means, individually or collectively, the application programming interfaces which are made available to Subscriber from time to time, as and when updated by CPI.

2.3 “ChargePoint Connections” shall have the meaning ascribed to it in the applicable data sheet. The term ChargePoint Connections shall also mean any successor service provided by CPI.

2.4 *“ChargePoint®”* means the open-platform network of electric vehicle charging stations and the vehicle charging applications the network delivers, that is operated and maintained by CPI (as defined below) in order to provide various services to, among others, Subscriber and its employees.

2.5 *“ChargePoint Services”* means, collectively, the various cloud services offerings (including, without limitation, APIs and application Cloud Plans) made available for subscription by CPI.

2.6 *“ChargePoint Application”* means any of the applications established and maintained by CPI which will allow Subscriber to access ChargePoint Services.

2.7 *“Charging Station”* means the electric vehicle charging station(s) purchased by Subscriber, whether manufactured by CPI or by a CPI authorized entity, which are registered and activated on ChargePoint.

2.8 *“Content”* means all data collected or maintained by CPI in connection with the operation of ChargePoint.

2.9 *“CPI Marks”* means the various trademarks, service marks, trade names, logos, domain names, and other distinctive brand features and designations used in connection with ChargePoint and/or CPI manufactured Charging Stations, including without limitation, ChargePoint.

2.10 *“CPI Property”* means (i) ChargePoint, (ii) the ChargePoint Services (including all Content), (iii) all data generated or collected by CPI in connection with the operation of ChargePoint and ChargePoint Services, (iv) the CPI Marks, (v) the ChargePoint Cards, and (vi) all other CPI-supplied material developed or provided by CPI for Subscriber use in connection with the ChargePoint Services.

2.11 *“Documentation”* means written information (whether contained in user or technical manuals, product materials, specifications or otherwise) pertaining to ChargePoint Services and/or ChargePoint and made available from time to time by CPI to Subscriber in any manner (including on-line).

2.12 *“Effective Date”* means the earliest of (a) the effective date of Subscriber’s initial quote for the ChargePoint Station and/or ChargePoint Services associated with this Agreement; (b) the date that Subscriber electronically accepts this Agreement, or (c) the date of Subscriber’s first use of the ChargePoint Services.

2.13 *“Intellectual Property Rights”* means all intellectual property rights, including, without limitation, patents, patent applications, patent rights, trademarks, trademark applications, trade names, service marks, service mark applications, copyrights, copyright applications, franchises, licenses, inventories, know-how, trade secrets, Subscriber lists, proprietary processes and formulae, all source and object code, algorithms, architecture, structure, display screens, layouts, inventions, development tools and all documentation and media constituting, describing or relating to the above, including, without limitation, manuals, memoranda and records.

2.14 *“Malicious Code”* means viruses, worms, time bombs, Trojan horses and all other forms of malicious code, including without limitation, malware, spyware, files, scripts, agents or programs.

2.15 *“Party”* means each of CPI and Subscriber.

2.16 *“PII”* means personally identifiable information regarding Subscriber or a User (e.g., name, address, email address, phone number or credit card number) that can be used to uniquely identify, contact or locate Subscriber or such User.

2.17 *“Provisioning”* means activating Charging Stations, warranties and Cloud Plans on ChargePoint

2.18 *“Rights”* means the rights, authorizations, privileges, actions, information and settings within the ChargePoint Services which a Rights Grantor grants to an Rights Grantee, to enable such Rights Grantee to access, obtain and use certain portions of the ChargePoint Services and certain information available therein in the course of providing services to or on behalf of such Rights Grantor in connection

with one or more of the Rights Grantor's Charging Stations. A Rights Grantor shall be deemed to have granted Rights to the entity that will be responsible for creating Subscriber's account and Provisioning Subscriber's Charging Stations. Such deemed grant may be terminated by Subscriber at any time.

2.19 "Cloud Plan(s)" means subscription plans to the ChargePoint Services which are offered and sold by CPI from time to time, which vary according to their features, privileges and pricing. Each Cloud Plan may be referred to as a "Subscription".

2.20 "Subscriber Content and Services" means any content and/or services that a Subscriber provides or makes available to Users and/or the general public in connection with the ChargePoint Services, other than Content, ChargePoint Services and CPI Property.

2.21 "Subscriber Marks" means the various trademarks, service marks, trade names, logos, domain names, and other distinctive brand features and designations used by Subscriber in connection with its business and/or Charging Stations.

2.22 "Subscription Fees" means the fees payable by Subscriber for subscribing to any ChargePoint Services.

2.23 "Taxes" shall mean all present and future taxes, imposts, levies, assessments, duties or charges of whatsoever nature including without limitation any withholding taxes, sales taxes, use taxes, service taxes, value added or similar taxes at the rate applicable for the time being imposed by any national or local government, taxing authority, regulatory agency or other entity together with any penalty payable in connection with any failure to pay or any delay in paying any of the same and any interest thereon.

2.24 "User" means any person using a Charging Station.

3. AVAILABLE CHARGEPOINT SERVICES & CLOUD PLANS. A description of the various ChargePoint Services and Cloud Plans currently available for subscription is located on the CPI website. CPI may make other ChargePoint Services and/or Cloud Plans available from time to time, and may amend the features or benefits offered with respect to any ChargePoint Service or Cloud Plan at any time and from time to time. Subscription Fees are based on Subscriber's choice of Cloud Plan and not on actual usage of the Subscription.

4. CPI'S RESPONSIBILITIES AND AGREEMENTS.

4.1 OPERATION OF CHARGEPOINT. CPI agrees to provide and shall be solely responsible for: (i) provisioning and operating, maintaining, administering and supporting ChargePoint and related infrastructure (other than Subscriber's Charging Stations and infrastructure for transmitting data from Charging Stations to any ChargePoint operations center); (ii) provisioning and operating, maintaining, administering and supporting the ChargePoint Applications; and (iii) operating ChargePoint in compliance with all applicable laws. CPI will protect the confidentiality and security of PII in accordance with all applicable laws and regulations and the CPI Privacy Policy and acknowledges that it is responsible for the security of "cardholder data" (as that term is defined for purposes of the Payment Card Industry – Data Security Standards), if any, that CPI possesses, otherwise stores, processes or transmits on behalf of Subscriber or for any impact, if any, on the security of Subscriber's cardholder data environment.

4.2 LIMITATIONS ON RESPONSIBILITY. CPI shall not be responsible for, and makes no representation or warranty with respect to the following: (i) specific location(s) or number of Charging Stations now, or in the future, owned, operated and/or installed by persons other than Subscriber, or the total number of Charging Stations that comprise ChargePoint; (ii) continuous availability of electrical service to any of Subscriber's Charging Stations; (iii) continuous availability of any wireless or cellular

communications network or Internet service provider network necessary for the continued operation by CPI of ChargePoint; (iv) availability of or interruption of the ChargePoint Network attributable to unauthorized intrusions; and/or (v) charging stations that are not registered with and activated on the ChargePoint Network.

5. SUBSCRIBER'S RESPONSIBILITIES AND AGREEMENTS.

5.1 GENERAL.

(a) All use of ChargePoint and ChargePoint Services by Subscriber, its employees and agents and its grantees of Rights shall comply with this Agreement and all of the rules, limitations and policies of CPI set forth in the Documentation. All ChargePoint Services account details, passwords, keys, etc. are granted to Subscriber solely for Subscriber's own use (and the use of its grantees of Rights), and Subscriber shall keep all such items secure and confidential. Subscriber shall prevent, and shall be fully liable to CPI for, any unauthorized access to or use of ChargePoint or ChargePoint Services via Subscriber's Charging Stations, ChargePoint Services account(s) or other equipment. Subscriber shall immediately notify CPI upon becoming aware of any such unauthorized use.

(b) Subscriber shall be solely responsible for: (i) Provisioning of its Charging Stations, if any; (ii) keeping Subscriber's contact information, email address for the receipt of notices hereunder, and billing address for invoices both accurate and up to date; (iii) updating on the applicable ChargePoint Application, within five (5) business days, the location to which any of Subscriber's Charging Stations are moved; (iv) the maintenance, service, repair and/or replacement of Subscriber's Charging Stations as needed, including informing CPI of the existence of any Charging Stations that are non-operational and not intended to be replaced or repaired by Subscriber; and (v) compliance with all applicable laws.

(c) Subscriber shall deliver in full all benefits promised to Users by Subscriber in exchange for such Users connecting with Subscriber using ChargePoint Connections.

5.2 REPRESENTATIONS AND WARRANTIES OF SUBSCRIBER. Subscriber represents and warrants to CPI that: (i) it has the power and authority to enter into and be bound by this Agreement and shall have the power and authority to install the Charging Stations and any other electrical vehicle charging products which are registered and activated on the ChargePoint Network); (ii) the electrical usage to be consumed by Subscriber's Charging Stations will not violate or otherwise conflict with the terms and conditions of any applicable electrical purchase or other agreement including, without limitation, any lease, to which Subscriber is a party; and (iii) it has not installed or attached and will not install or attach Charging Stations on or to infrastructure not owned by Subscriber without proper authority, or in a manner that will block any easement or right of way.

5.3 CHARGEPOINT CARDS. Subscriber may be permitted by CPI, in CPI's sole discretion, to obtain CPI-provisioned radio-frequency identification cards ("ChargePoint Cards") which enable the individual card recipients to access and use ChargePoint. Subscriber may distribute such ChargePoint Cards to individuals, and each individual ChargePoint Card recipient is responsible for activating his or her ChargePoint Card on ChargePoint directly with CPI on the CPI web site. In no event will Subscriber create any separate ChargePoint accounts for any ChargePoint Card recipients or other third parties, nor will Subscriber create anonymous ChargePoint accounts associated with any ChargePoint Card.

5.4 USE RESTRICTIONS AND LIMITATIONS. Subscriber shall not:

(a) sell, resell, license, rent, lease or otherwise transfer the ChargePoint Services or any Content therein to any third party;

(b) interfere with or disrupt the ChargePoint Services, servers, or networks connected to the ChargePoint Services, or disobey any requirements, procedures, policies, or regulations of networks connected to the ChargePoint Services;

(c) restrict or inhibit any other user from using and enjoying the ChargePoint Services or any other CPI services;

(d) attempt to gain unauthorized access to the ChargePoint Network or the ChargePoint Services or related systems or networks or any data contained therein, or access or use ChargePoint or ChargePoint Services through any technology or means other than those provided or expressly authorized by CPI;

(e) create any ChargePoint Services user account by automated means or under false or fraudulent pretenses, or impersonate another person or entity on ChargePoint, or obtain or attempt to obtain multiple keys for the same URL;

(f) reverse engineer, decompile or otherwise attempt to extract the source code of the ChargePoint Services or any part thereof, or any Charging Station, except to the extent expressly permitted or required by applicable law;

(g) create derivative works based on any CPI Property;

(h) remove, conceal or cover the CPI Marks or any other markings, labels, legends, trademarks, or trade names installed or placed on the Charging Stations or any peripheral equipment for use in connection with Subscriber's Charging Stations;

(i) except as otherwise expressly permitted by this Agreement or in any applicable data sheet relating to a ChargePoint Service, copy, frame or mirror any part of the ChargePoint Services or ChargePoint Content, other than copying or framing on Subscriber's own intranets or otherwise solely for Subscriber's own internal business use and purposes;

(j) access ChargePoint, any ChargePoint Application or the ChargePoint Services for the purpose of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purpose, or for any improper purpose whatsoever, including, without limitation, in order to build a competitive product or service or copy any features, functions, interface, graphics or "look and feel;"

(k) use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the ChargePoint Services or Content or collect information about ChargePoint users for any unauthorized purpose;

(l) upload, transmit or introduce any Malicious Code to ChargePoint or ChargePoint Services;

(m) use any of the ChargePoint Services if Subscriber is a person barred from such use under the laws of the United States or of any other jurisdiction; or

(n) use the ChargePoint Services to upload, post, display, transmit or otherwise make available (A) any inappropriate, defamatory, obscene, or unlawful content; (B) any content that infringes any patent, trademark, copyright, trade secret or other proprietary right of any party; (C) any messages, communication or other content that promotes pyramid schemes, chain letters, constitutes disruptive commercial messages or advertisements, or is prohibited by applicable law, the Agreement or the Documentation.

5.5 CONTENT.

(a) ChargePoint Content (including but not limited to Charging Station data and status) is provided for planning purposes only. Subscriber may find that various events may mean actual Charging Station conditions (such as availability or pricing) differ from what is set forth in the Content. In addition, certain Charging Station-related Content, including Charging Station name and use restrictions, is set by the Charging Station owner and is not verified by CPI. Subscriber should exercise judgment in Subscriber's use of the Content.

(b) Certain Content may be provided under license from third parties and is subject to copyright and other intellectual property rights of such third parties. Subscriber may be held liable for any unauthorized copying or disclosure of such third party-supplied Content. Subscriber's use of such Content may be subject to additional restrictions set forth in the Documentation.

(c) Subscriber shall not copy, modify, alter, translate, amend, or publicly display any of the Content except as expressly permitted by the Documentation. Subscriber shall not present any portion of the Content in any manner, that would (i) make such Content false, inaccurate or misleading, (ii) falsify or delete any author attributions or labels of the origin or source of Content, or (iii) indicate or suggest that the Charging Station locations provided as part of the Content are anything other than ChargePoint® Network Charging Stations.

(d) Subscriber shall not remove, obscure, or alter in any manner any proprietary rights notices (including copyright and trademark notices), warnings, links or other notifications that appear in the ChargePoint Service.

6. SUBSCRIPTION FEES AND PAYMENT TERMS.

6.1 SUBSCRIPTION FEES. If Subscriber is invoiced for the Services, Subscriber shall pay all Subscription Fees within thirty (30) days of its receipt of CPI's invoice. All payments shall be made in U.S. Dollars by check, wire transfer, ACH payment system or other means approved by CPI or if applicable, as described in CPI's credit card policy. Customer may not offset any amounts due to CPI hereunder against amounts due to Customer under this Agreement or any other agreement. Subscription fees payable to CPI do not include any Taxes imposed thereon, and Subscriber is responsible for any and all such Taxes. All such Taxes shall be set forth on the invoice provided by CPI to Subscriber; provided that, CPI's failure to include any such Tax on an invoice shall not relieve Subscriber's liability therefor. Except as otherwise set forth in this Agreement, all payment obligations under this Agreement are non-cancelable and non-refundable.

6.2 LATE PAYMENTS. Late payments shall be subject to a charge equal to the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate permitted by law. Subscriber will reimburse CPI for attorneys' fees and other expenses reasonably incurred by CPI in the collection of any late payments. If any amount owing by Subscriber under this Agreement is more than thirty (30) days overdue, CPI may, without otherwise limiting CPI's rights or remedies, (a) terminate this Agreement, (b) suspend the use by Subscriber of the ChargePoint Services until such amounts are paid in full, and/or (c) condition future ChargePoint Service renewals and other Subscriber purchases on payment terms other than those set forth herein; provided that CPI shall not exercise any such rights if Subscriber has reasonably disputed such charges and is cooperating diligently in good faith to resolve the dispute.

7. INTELLECTUAL PROPERTY RIGHTS AND LICENSES.

7.1 CPI PROPERTY. As between CPI and Subscriber, CPI retains and reserves all right, title and interest (including all related Intellectual Property Rights) in and to the CPI Property and any

improvements thereto. No rights are granted to Subscriber in the CPI Property hereunder except as expressly set forth in this Agreement.

7.2 SUBSCRIBER PROPERTY. As between CPI and Subscriber, Subscriber retains and reserves all right, title and interest (including all related Intellectual Property Rights) in and to (i) all Subscriber Marks and (ii) all Subscriber Content and Services (collectively, the “Subscriber Property”). No rights are granted to CPI in the Subscriber Property hereunder except as expressly set forth in this Agreement.

7.3 LIMITED LICENSE TO SUBSCRIBER. CPI hereby grants to Subscriber a royalty-free, non-assignable, non-transferable, and non-exclusive license to use the CPI Property solely in accordance with the terms of this Agreement (including without limitation all limitations and restrictions on such use) to the extent necessary for Subscriber to access, use and receive the ChargePoint Services as permitted herein.

7.4 LIMITED LICENSE TO CPI. Subscriber hereby grants to CPI a non-assignable, non-transferable, and non-exclusive license to use the Subscriber Property solely in accordance with the terms of this Agreement (including without limitation all limitations and restrictions on such use) to the extent necessary for CPI to provide the ChargePoint Services. CPI may utilize the Subscriber Marks to advertise that Subscriber is using the ChargePoint Services. The foregoing license includes a perpetual and irrevocable right of CPI to reproduce, adapt, modify, translate, publicly perform, publicly display and distribute all Subscriber Content and Services submitted, posted or displayed by Subscriber in the ChargePoint Services, solely for the purpose of enabling CPI to operate, market and promote the ChargePoint Services, and to index and serve such Subscriber Content and Services as search results through ChargePoint Services. CPI shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable perpetual license to use or incorporate in the ChargePoint Services any suggestions, enhancement requests, recommendations or other feedback provided by Subscriber or Subscriber Rights Grantees relating to the ChargePoint Services.

7.5 ADDITIONAL TERMS REGARDING CPI MARKS.

(a) **USE LIMITATIONS.** Subscriber shall display the CPI Marks in connection with Subscriber Charging Stations as required in this Agreement during the term of Subscriber’s Cloud Plan. Subscriber shall not use any of the CPI Marks for or with any products other than its Charging Stations. From time to time, CPI may provide updated CPI Mark usage guidelines on the ChargePoint Application or elsewhere in the Documentation, and Subscriber shall thereafter comply with such updated guidelines. For any use of the CPI Mark not authorized by such guidelines, or if no such guidelines are provided, then for each initial use of the CPI Mark, Subscriber must obtain CPI’s prior written consent, which shall not be unreasonably withheld or delayed, and after such consent is obtained, Subscriber may use the CPI Mark in the approved manner. All use by Subscriber of CPI’s Marks (including any goodwill associated therewith) will inure to the benefit of CPI.

(b) **PROHIBITIONS.** Subscriber shall not use or display any CPI Mark (or any likeness of a CPI Mark):

(i) as a part of the name under which Subscriber’s business is conducted or in connection with the name of a business of Subscriber or its Affiliates;

(ii) in any manner that (x) implies a relationship or affiliation with CPI other than as described under the Agreement, (y) implies any sponsorship or endorsement by CPI, or (z) can be reasonably interpreted to suggest that any Subscriber Content and Services has been authored by, or represents the views or opinions of CPI or CPI personnel;

(iii) in any manner intended to disparage CPI, ChargePoint, or the ChargePoint Services, or in a manner that is misleading, defamatory, infringing, libelous, disparaging, obscene or otherwise objectionable to CPI;

(iv) in any manner that violates any law or regulation; or

(v) that is distorted or altered in any way (including squeezing, stretching, inverting, discoloring, etc.) from the original form provided by CPI.

(c) **NO REGISTRATION OF CPI MARKS.** Subscriber shall not, directly or indirectly, register or apply for, or cause to be registered or applied for, any CPI Marks or any patent, trademark, service mark, copyright, trade name, domain name or registered design that is substantially or confusingly similar to a CPI Mark, patent, trademark, service mark, copyright, trade name, domain name or registered design of CPI, or that is licensed to, connected with or derived from confidential, material or proprietary information imparted to or licensed to Subscriber by CPI. At no time will Subscriber challenge or assist others to challenge the CPI Marks (except to the extent such restriction is prohibited by law) or the registration thereof by CPI.

(d) **TERMINATION AND CESSATION OF USE OF CPI MARKS.** Upon termination of this Agreement, Subscriber will immediately discontinue all use and display of all CPI Marks.

8. LIMITATIONS OF LIABILITY.

8.1 DISCLAIMER OF WARRANTIES. CHARGEPOINT AND THE CHARGEPOINT SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" FOR SUBSCRIBER'S USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT. WITHOUT LIMITING THE FOREGOING, CPI DOES NOT WARRANT THAT (A) SUBSCRIBER'S USE OF THE CHARGEPOINT SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, FREE FROM ERROR, OR MEET SUBSCRIBER'S REQUIREMENTS; (B) ALL CONTENT AND OTHER INFORMATION OBTAINED BY SUBSCRIBER FROM OR IN CONNECTION WITH THE CHARGEPOINT SERVICES WILL BE ACCURATE AND RELIABLE; (C) ALL DEFECTS IN THE OPERATION OR FUNCTIONALITY OF THE CHARGEPOINT SERVICES WILL BE CORRECTED. ALL CONTENT OBTAINED THROUGH THE CHARGEPOINT SERVICES IS OBTAINED AT SUBSCRIBER'S OWN DISCRETION AND RISK, AND SUBSCRIBER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO SUBSCRIBER'S COMPUTER SYSTEM OR OTHER DEVICE, LOSS OF DATA, OR ANY OTHER DAMAGE OR INJURY THAT RESULTS FROM THE DOWNLOAD OR USE OF ANY SUCH CONTENT.

8.2 EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES. REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL CPI BE LIABLE FOR ANY LOST REVENUE OR PROFIT, LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE THE CHARGEPOINT NETWORK, ANY CHARGEPOINT SERVICES, THIS AGREEMENT, A GRANT OR RECEIPT OF RIGHTS OR OTHERWISE OR BASED ON ANY EXPRESSED, IMPLIED OR CLAIMED WARRANTIES BY SUBSCRIBER NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT.

8.3 ELECTRICAL, CELLULAR AND INTERNET SERVICE INTERRUPTIONS. Neither CPI nor Subscriber shall have any liability whatsoever to the other with respect to damages caused by: (i) electrical outages, power surges, brown-outs, utility load management or any other similar electrical service interruptions, whatever the cause; (ii) interruptions in wireless or cellular service linking Charging Stations to ChargePoint; (iii) interruptions attributable to unauthorized ChargePoint Network intrusions; (iv) interruptions in services provided by any Internet service provider not affiliated with CPI; or (v) the

inability of a Charging Station to access ChargePoint as a result of any change in product offerings (including, without limitation, the any network upgrade or introduction of any “next generation” services) by any wireless or cellular carrier. This includes the loss of data resulting from such electrical, wireless, cellular or Internet service interruptions.

8.4 LIMITATION OF LIABILITY. CPI’s aggregate liability under this Agreement shall not exceed aggregate Subscription Fees paid by Subscriber to CPI in the twelve (12) calendar months prior to the event giving rise to the liability.

8.5 CELLULAR CARRIER LIABILITY. IN ORDER TO DELIVER THE CHARGEPOINT SERVICES, CPI HAS ENTERED INTO CONTRACTS WITH ONE OR MORE UNDERLYING WIRELESS SERVICE CARRIERS (THE “UNDERLYING CARRIER”). SUBSCRIBER HAS NO CONTRACTUAL RELATIONSHIP WITH THE UNDERLYING CARRIER AND SUBSCRIBER IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN CPI AND THE UNDERLYING CARRIER. SUBSCRIBER UNDERSTANDS AND AGREES THAT THE UNDERLYING CARRIER HAS NO LIABILITY OF ANY KIND TO SUBSCRIBER, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE. SUBSCRIBER AGREES TO INDEMNIFY AND HOLD HARMLESS THE UNDERLYING CARRIER AND ITS OFFICERS, EMPLOYEES, AND AGENTS AGAINST ANY AND ALL CLAIMS, INCLUDING WITHOUT LIMITATION CLAIMS FOR LIBEL, SLANDER, OR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH, ARISING IN ANY WAY, DIRECTLY OR INDIRECTLY, IN CONNECTION WITH USE, FAILURE TO USE, OR INABILITY TO USE THE WIRELESS SERVICES EXCEPT WHERE THE CLAIMS RESULT FROM THE UNDERLYING CARRIER’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THIS INDEMNITY WILL SURVIVE THE TERMINATION OF THE AGREEMENT. SUBSCRIBER HAS NO PROPERTY RIGHT IN ANY NUMBER ASSIGNED TO IT, AND UNDERSTANDS THAT ANY SUCH NUMBER CAN BE CHANGED. SUBSCRIBER UNDERSTANDS THAT CPI AND THE UNDERLYING CARRIER CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS, AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE CHARGEPOINT SERVICES.

8.6 ADDITIONAL RIGHTS. BECAUSE SOME STATES OR JURISDICITONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES AND/OR THE DISCLAIMER OF IMPLIED WARRANTIES AS SET FORTH IN THIS SECTION 8, ONE OR MORE OF THE ABOVE LIMITATIONS MAY NOT APPLY; PROVIDED THAT, IN SUCH INSTANCES, CPI’S LIABILITY AND/OR IMPLIED WARRANTIES GRANTED IN SUCH CASES SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9. TERM, RENEWAL AND TERMINATION.

9.1 TERM OF AGREEMENT. This Agreement shall become effective on the Effective Date and shall continue until the expiration of all of Subscriber’s Cloud Plans.

9.2 CLOUD PLAN TERM. Each Cloud Plan acquired by Subscriber shall commence as follows: Each Cloud Plan acquired for use with a new Charging Station will commence on ninety (90) days from the date the subscription plan is invoiced. Upon expiration of the original term, this Agreement will renew automatically for the successive term originally purchased at the list price applicable thereto, subject to increases (not to exceed 5% annually) and Subscriber’s right to terminate below. Should the renewal be cancelled and subsequently be requested to be reinstated by Subscriber, reinstatement will be subject to the payment of Subscription Fees for any lapse period plus reasonable reinstatement fee. If, however, at any time after the original term Subscriber wishes to terminate a Cloud Plan that has been automatically renewed, Subscriber may do so by providing CPI thirty (30) days’ written notice of cancellation and CPI will issue Subscriber a pro-rata refund of any funds paid for periods from the effective date of cancellation to the end of the auto-renewed term. Notwithstanding the foregoing, there shall no pro-rata refunds allowed on automatic renewals for plans of multiple years. Renewals of Cloud Plans will commence on the date of the expiration of the Subscription being renewed. Each Subscriber Cloud Plan shall continue for the applicable duration thereof, unless this Agreement is terminated earlier in accordance with its terms. If Subscriber has elected or is required, as the case may be, to pay by credit card as provided in this

Agreement or if applicable, as described in CPI's credit card policy, the renewal will be charged to Subscriber's payment method (credit card) on file, which may include any payment method automatically updated by Subscriber's issuing bank. If Subscriber's credit card is declined, invalid, or payment is not made by the issuer of Subscriber's credit card on Subscriber's Subscription Date, without further notice CPI reserves the right to automatically recharge the payment method until payment is received, the payment method is updated, or the Service is discontinued for nonpayment.

9.3 TERMINATION BY CPI.

(a) This Agreement may be immediately terminated by CPI: (i) if Subscriber is in material breach of any of its obligations under this Agreement, and has not cured such breach within thirty (30) days (or within five (5) days in the case of any payment default) of Subscriber's receipt of written notice thereof; (ii) Subscriber becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors; (iii) upon the determination by any regulatory body that the subject matter of this Agreement is subject to any governmental regulatory authorization or review that imposes additional costs of doing business upon CPI; or (iv) as otherwise explicitly provided in this Agreement. Regardless of whether Subscriber is then in breach, CPI may, in its reasonable discretion, determine that it will not accept any renewal by Subscriber of its subscription to ChargePoint Services. In such case, this Agreement shall terminate upon the later of the expiration of all of Subscriber's subscriptions to ChargePoint Services.

(b) CPI may in its discretion suspend Subscriber's continuing access to the ChargePoint Services or any portion thereof if (A) Subscriber has breached any provision of this Agreement, or has acted in manner that indicates that Subscriber does not intend to, or is unable to, comply with any provision of this Agreement; (B) such suspension is required by law (for example, due to a change to the law governing the provision of the ChargePoint Services); or (c) providing the ChargePoint Services to Subscriber could create a security risk or material technical burden as reasonably determined by CPI.

9.4 TERMINATION BY SUBSCRIBER.

This Agreement may be immediately terminated by Subscriber without prejudice to any other remedy of Subscriber at law or equity: (i) if CPI is in material breach of any of its obligations under this Agreement, and has not cured such breach within thirty (30) days of the date of its receipt of written notice thereof, (ii) CPI becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors, or (iii) upon providing thirty (30) days prior written notice.

9.5 REFUND OR PAYMENT UPON TERMINATION. Upon any termination of this Agreement for cause by Subscriber pursuant to Section 9.4(i) or by CPI pursuant to Section 9.3(a)(iii), CPI shall refund to Subscriber a pro-rata portion of any pre-paid Subscription Fees based upon the remaining Cloud Plan term. Upon any termination for any other reason, Subscriber shall not be entitled to any refund of any Subscription Fees as a result of such termination. Except as otherwise set forth in this Agreement, in no event shall any termination relieve Subscriber of any unpaid Subscription Fees due CPI for the Cloud Plan term in which the termination occurs or any prior Cloud Plan term.

9.6 SURVIVAL. Those provisions dealing with the Intellectual Property Rights of CPI, limitations of liability and disclaimers, restrictions of warranty, Applicable Law and those other provisions which by their nature or terms are intended to survive the termination of this Agreement will remain in full force and effect as between the Parties hereto regardless of the termination of this Agreement.

10. INDEMNIFICATION. Subscriber hereby agrees to indemnify, defend and hold CPI, its officers, directors, agents, affiliates, distribution partners, licensors and suppliers harmless from and against any and all claims, actions, proceedings, costs, liabilities, losses and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Claims") suffered or incurred by such indemnified parties

resulting from or arising out of Subscriber's actual or alleged use (directly, or through a grantee of Rights by Subscriber) of the ChargePoint Services, ChargePoint or Subscriber Content and Services. Subscriber will cooperate as fully as reasonably required in the defense of any claim. CPI reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by Subscriber.

11. GENERAL.

11.1 AMENDMENT OR MODIFICATION. CPI reserves the right to modify this Agreement from time to time. CPI will provide notice of each such modification to Subscriber. Subscriber's continued use of the ChargePoint Services following such notice will constitute an acceptance of the modified Agreement.

11.2 WAIVER. The failure of either Party at any time to enforce any provision of this Agreement shall not be construed to be a waiver of the right of such Party to thereafter enforce that provision or any other provision or right.

11.3 FORCE MAJEURE. Except with respect to payment obligations, neither CPI nor Subscriber will be liable for failure to perform any of its obligations hereunder due to causes beyond such party's reasonable control and occurring without its fault or negligence, including but not limited to fire, flood, earthquake or other natural disaster (irrespective of such Party's condition of any preparedness therefore); war, embargo; riot; strike; labor action; any lawful order, decree, or other directive of any government authority that prohibits a Party from performing its obligations under this Agreement; material shortages; shortage of transport; and failures of suppliers to deliver material or components in accordance with the terms of their contracts.

11.4 ARBITRATION. This Agreement is to be construed according to the laws of the State of California, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any conflict of law provisions that would require application of another choice of law. Except with respect to any matter relating to Subscriber's violation of the intellectual property rights of CPI, any dispute arising from or relating to this Agreement shall be arbitrated in Santa Clara, California. The arbitration shall be administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures, and judgment on any award may be entered in any court of competent jurisdiction. If the Parties agree, a mediator may be consulted prior to arbitration. All claims shall be brought in the parties' individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. With respect to any matter relating to the intellectual property rights of CPI, such claim may be litigated in a court of competent jurisdiction. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.

11.5 NOTICE REGARDING CLAIMS TO REGULATORY COMPLIANCE MECHANISMS. The use of certain ChargePoint Charging Stations may be eligible to generate clean fuels credits, low-carbon fuel standard credits, renewable fuels credits, emissions reduction units, carbon offsets, allowances, renewable fuel and/or obligation certificates, or similar regulatory compliance instruments, collectively ("Regulatory Compliance Mechanisms"), used to comply with applicable federal, state, provincial, international or regional emissions, low-carbon fuel, and/or renewable fuel compliance programs. CPI and Subscriber may be eligible to claim title to Regulatory Compliance Mechanisms, however, only one Party can claim title. Should Subscriber choose to claim regulatory title, assuming Subscriber may be eligible to do so, Subscriber must opt-in to the applicable program and fulfill all ongoing administrative and reporting obligations required of program participants, including recurring verification and/or auditing requirements. CPI intends to claim title to applicable Regulatory Compliance Mechanisms, assuming CPI may be eligible to do so; however, CPI will not claim title to specific Regulatory Compliance Mechanisms that Subscriber has opted to claim. Subscriber agrees that it will provide CPI with written notice of its intent to claim specific Regulatory Compliance Mechanisms within ten (10) days of the Effective Date. If

Subscriber does not currently intend to claim regulatory title, but desires to do so at any time in the future, Subscriber may, by providing written notice to CPI, elect to claim title to Regulatory Compliance Mechanisms resulting from the use of ChargePoint Charging Stations thirty (30) days or more after the date of such notice. Subscriber represents and warrants to CPI that, in the absence of providing written notice, Subscriber will not claim any Regulatory Compliance Mechanisms and hereby designates that right to CPI. All notices shall be provided by email to CPI at lcfnotification@chargepoint.com.

11.6 NOTICE REGARDING RIN DATA. For Subscriber's located in the United States, CPI will participate in an application to the U.S. Environmental Protection Agency ("EPA") to permit vehicle charging data ("Charging Data") collected by CPI from centrally networked charging stations to be utilized in a process to generate Renewable Identification Numbers ("RIN") under the Renewable Fuel Standard. CPI must establish its exclusive right to utilize the Charging Data and the associated environmental attributes underlying the charging events represented by the Charging Data (Charging Data and such environmental attributes referred to collectively as, the "RIN Data") for the purposes of RIN generation. Subscriber confirms that it will not pursue utilizing RIN Data for the purposes of RIN generation and that, as between Subscriber and CPI, CPI has the exclusive right to use the RIN Data for the purpose of RIN generation.

11.7 NOTICES. Other than the notices required in Sections 11.5 and 11.6, any notice required or permitted by this Agreement shall be sent (a) if by CPI, via electronic mail to the address indicated by Subscriber in Subscriber's ChargePoint Services account; or (b) if by Subscriber, via electronic mail to mssa@chargepoint.com.

11.8 INJUNCTIVE RELIEF. Subscriber acknowledges that damages for improper use of the ChargePoint Services may be irreparable; therefore, CPI is entitled to seek equitable relief, including but not limited to preliminary injunction and injunction, in addition to all other remedies.

11.9 SEVERABILITY. Except as otherwise specifically provided herein, if any term or condition of this Agreement or the application thereof to either Party will to any extent be determined jointly by the Parties or by any judicial, governmental or similar authority, to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to this Agreement, the Parties or circumstances other than those as to which it is determined to be invalid or unenforceable, will not be affected thereby.

11.10 ASSIGNMENT. Subscriber may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of CPI (not to be unreasonably withheld). In the event of any purported assignment in breach of this Section, CPI shall be entitled, at its sole discretion, to terminate this Agreement upon written notice given to Subscriber. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. CPI may assign its rights and obligations under this Agreement.

11.11 NO AGENCY OR PARTNERSHIP. CPI, in the performance of this Agreement, is an independent contractor. In performing its obligations under this Agreement, CPI shall maintain complete control over its employees, its subcontractors and its operations. No partnership, joint venture or agency relationship is intended by CPI and Subscriber to be created by this Agreement. Neither Party has any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other Party, whether express or implied, or to bind the other Party in any respect whatsoever.

11.12 ENTIRE AGREEMENT. This Agreement (including the attached Exhibits) contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes and cancels all previous and contemporaneous agreements, negotiations, commitments, understandings, representations and writings. All purchase orders issued by Subscriber shall state that such purchase

orders are subject to all of the terms and conditions of this Agreement, and contain no other term other than the type of Cloud Plan, the number of Charging Stations for which such Cloud Plan is ordered, the term of such Cloud Plans and applicable Subscription Fees. To the extent of any conflict or inconsistency between the terms and conditions of this Agreement and any purchase order, the Agreement shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in any other documentation shall be incorporated into or form any part of this Agreement, and all such purported terms and conditions shall be null and void.

11.13 COPYRIGHT POLICIES. It is CPI's policy to respond to notices of alleged copyright infringement that comply with applicable international intellectual property law (including, in the United States, the Digital Millennium Copyright Act) and to terminate the accounts of repeat infringers.

11.14 THIRD PARTY RESOURCES. The ChargePoint Services may include hyperlinks to other websites or resources. CPI has no control over any web sites or resources that are provided by companies or persons other than CPI. Subscriber acknowledges and agrees that CPI is not responsible for the availability of any such web sites or resources, CPI does not endorse any advertising, products or other materials on or available from such web sites or resources, and CPI is not liable for any loss or damage that may be incurred by Subscriber as a result of any reliance placed by Subscriber on the completeness, accuracy or existence of any advertising, products, or other materials on, or available from, such websites or resources.

11.15 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute but one and the same document.

11.16 ENGLISH LANGUAGE AGREEMENT GOVERNS. Where CPI has provided Subscriber with a translation of the English language version of this Agreement, Subscriber agrees that the translation is provided for Subscriber's convenience only and that the English language version of this Agreement governs Subscriber's relationship with CPI. If there is any conflict between the English language version of this Agreement.

Signature page follows

Subscriber: _____

ChargePoint, Inc.

Signature:

Signature:

Name: Chris Peabody

Name:

Title: Title

Title:

Date: June 21, 2022

Date:

Address: 100 Scott Street, P.O. Box, Walkerton,
ON N0G 2V0

Address:

Signature:

254 E. Hacienda Ave.

Campbell, CA 95008

Name: Fiona Hamilton

Title: Director of Legislative and Legal Services
(Clerk)

Date: June 21, 2022

Address: 100 Scott Street, P.O. Box 68,
Walkerton, ON N0G 2V0

EXHIBIT 1

FLEX BILLING TERMS

This Exhibit sets forth certain additional terms and conditions (“Flex Billing Terms”) pursuant to which Subscriber may charge Users fees for the use of Subscriber’s Charging Stations. In order to charge such fees, Subscriber must subscribe to a Cloud Plan that includes CPI’s management, collection and/or processing services related to such fees (“Flex Billing”).

1. DEFINITIONS. The following additional defined terms shall apply to these Flex Billing Terms:

1.1 “CPI Fees” means a fee, currently equal to ten percent (10%) of Session Fees, charged for a particular Session. CPI Fees are charged by CPI in exchange for its collection and processing of Session Fees on behalf of Subscriber. CPI will provide Subscriber with thirty (30) days prior written notice (which may include, without limitation, notice provided by CPI through its regular newsletter to Subscriber) of any increase in CPI Fees.

1.2 “Net Session Fees” means the total amount of Session Fees collected on behalf of the Subscriber by CPI, less CPI Fees and Taxes, if any, required by law to be collected by CPI from Users in connection with the use of Charging Stations. Except as required by law, Subscriber shall be responsible for the payment of all Taxes incurred in connection with use of Subscriber’s Charging Stations.

1.3 “Session” or “Charging Session” means the period of time during which a User uses Subscriber’s Charging Station to charge his or her electric vehicle for a continuous period of time not less than two (2) minutes commencing when a User has accessed such Charging Station and ending when such User has terminated such access.

1.4 “Session Fees” means the fees set by the Subscriber for a Charging Session, inclusive of any applicable Taxes.

2. FLEX-BILLING SERVICE FOR CHARGING STATIONS.

2.1. SESSION FEES. Subscriber shall have sole authority to determine and set Session Fees. Subscriber shall be solely responsible for determining and charging Session Fees in compliance with all applicable laws and regulations (including without limitation any restriction on Subscriber’s use of per-kWh pricing). Subscriber acknowledges that CPI is not responsible for informing Subscriber of applicable laws or changes thereto, and CPI will not be liable to Subscriber or any third party for any alleged or actual failure of Subscriber to comply with such applicable laws and regulations.

2.2 DEDUCTIONS FROM SESSION FEES. In exchange for CPI collecting Session Fees on behalf of the Subscriber, the Subscriber hereby authorizes CPI to deduct from all Session Fees collected: (i) CPI Fees and (ii) to the extent required by Section 3, applicable Taxes.

PAYMENT TO SUBSCRIBER OF NET SESSION FEES. CPI will remit Net Session Fees to Subscriber, not less than monthly , provided that the amount due to Subscriber hereunder is at least fifty U.S. dollars (50) (or, if Subscriber is located in Canada fifty Canadian dollars). Notwithstanding, the foregoing, CPI shall remit any unpaid Net Session Fees, regardless of the amount, to Subscriber at least annually and within thirty (30) days of the expiration or termination of this Agreement. All payments shall be made by electronic payment. In order to facilitate such payments, Subscriber agrees to maintain Subscriber’s current bank information, into Subscriber’s ChargePoint Services (customer facing portal), to enable electronic remittance of the Net Session Fees. If the Subscriber requests payment in a manner other than electronic payment (e.g., check or wire transfer), Subscriber agrees to bear the reasonable costs related to such request.

3. TAXES. If applicable, Subscriber is responsible for setting pricing on a Tax-inclusive basis. CPI is not responsible for remittance of any Taxes on behalf of Subscriber and Subscriber shall be responsible to report and remit any and all applicable Taxes assessable based on Charging Sessions whether state, federal, provincial or otherwise; provided that CPI is solely responsible for all Taxes assessable based on CPI’s income, property and employees. Where CPI is required by law to collect and/or remit the Taxes

for which Subscriber is responsible, the appropriate amount shall be invoiced to Subscriber and deducted by CPI from Session Fees, unless Subscriber has otherwise provided CPI with a valid tax or regulatory exemption certificate or authorization from the appropriate taxing or regulatory authority.

EXHIBIT 2
API TERMS

This Exhibit sets forth certain additional terms and conditions (“API Terms”) governing Subscriber’s use of the APIs in connection with Subscriber’s use of the ChargePoint Services. The API Terms are part of the Agreement, and all such use of the APIs remains subject to the Agreement terms.

1. **ADDITIONAL DEFINITIONS.** The following additional definitions shall apply to the API Terms.

1.1 **“API Implementation”** means a Subscriber software application or website that uses any of the APIs to obtain and display Content in conjunction with Subscriber Content and Services.

1.2 **“API Documentation”** means all Documentation containing instructions, restrictions or guidelines regarding the APIs or the use thereof, as amended and/or supplemented by CPI from time to time.

1.3 **“CPI Site Terms”** means the Terms and Conditions displayed on CPI’s website, governing use of CPI’s website and the ChargePoint Services by visitors who are not Cloud Plan subscribers.

2. **API USE.** Subscriber may use the APIs as and to the extent permitted by Subscriber’s Cloud Plan and the API Documentation, subject to the terms and conditions of the Agreement.

2.1 **AVAILABLE APIs AND FUNCTION CALLS.** The APIs give Subscriber access to information through a set of function calls. The particular APIs and API function calls made available by CPI from time to time (and the Content available through such APIs and function calls) will be limited by Subscriber’s Cloud Plan, and Subscriber’s particular Cloud Plan may not include all APIs and function calls then available from CPI.

2.2 **USE AND DISPLAY OF CONTENT.** Subscriber is permitted to access, use and publicly display the Content with Subscriber Content and Services in Subscriber’s API Implementation, subject to the following requirements and limitations.

(a) All Charging Station locations provided to Subscriber as part of the Content shall be clearly identified by Subscriber in Subscriber’s API Implementation as ChargePoint® Network Charging Stations and shall contain the Brand Identifiers required by the API Documentation. In no event shall Subscriber’s API Implementation identify or imply that any Charging Station is a part of any network of charging stations other than ChargePoint.

(b) Subscriber shall keep the Content used by Subscriber’s API Implementation current with Content obtained with the APIs to within every forty eight (48) hours.

(c) Content provided to Subscriber through the APIs may contain the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of CPI’s business partners and/or other third party rights holders of Content indexed by CPI, which may not be deleted or altered in any manner.

(d) Subscriber shall not:

(i) pre-fetch, cache, or store any Content, except that Subscriber may store limited amounts of Content for the purpose of improving the performance of Subscriber's API Implementation if Subscriber does so temporarily, securely, and in a manner that does not permit use of the Content outside of the ChargePoint Service;

(ii) hide or mask from CPI the identity of Subscriber's service utilizing the APIs, including by failing to follow the identification conventions listed in the API Documentation; or

(iii) defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others.

2.3 REQUIRED INFORMATION. Subscriber must:

(a) display to all viewers and users of Subscriber's API Implementation the link to the CPI Site Terms and Conditions as presented through the ChargePoint Services or described in the Documentation;

(b) explicitly state in the use terms governing Subscriber's API Implementation that, by using Subscriber's API Implementation, such viewers and users are agreeing to be bound by the CPI Site Terms; and

(c) include in Subscriber's API Implementation, and abide by, a privacy policy complying with all applicable laws; and

(d) comply with all applicable laws designed to protect the privacy and legal rights of users of Subscriber's API Implementation.

2.4 REPORTING. Subscriber must implement reporting mechanisms, if any, that CPI requires in the API Documentation.

3. CPI BRANDING REQUIREMENTS AND RESTRICTIONS.

3.1 MANDATORY CPI BRANDING. Subject to Section 3.2 below and the restrictions on use of CPI Marks set forth in the Agreement, Subscriber agrees that each page comprising Subscriber's API Implementation will include a ChargePoint logo and will state that Subscriber's application or website is provided, in part, through the ChargePoint Services.

3.2 RESTRICTIONS. Subscriber shall not:

(a) display any CPI Mark as the most prominent element on any page in Subscriber's API Implementation or Subscriber's website (except as used in connection with the display of Charging Stations); or

(b) display any CPI Mark anywhere in Subscriber's API Implementation or on Subscriber's website if Subscriber's API Implementation or website contains or displays adult content or promotes illegal activities, gambling, or the sale of tobacco or alcohol to persons under twenty-one (21) years of age.

EXHIBIT 3
TERMS REGARDING GRANTING OF RIGHTS

This Exhibit sets forth certain additional terms and conditions applicable to Rights Grantors and Rights Grantees regarding the granting of Rights (“Rights Terms”). The Rights Terms are part of the Agreement, and all use of the ChargePoint Services permitted pursuant to the Rights Terms remains subject to the Agreement.

1. **ADDITIONAL DEFINITIONS.** The following additional definitions shall apply.

1.1 **“Rights Grantor”** means Subscriber.

1.2 **“Rights Grantee”** means any person to whom Subscriber has granted Rights. For purposes of this Agreement, a Subscriber shall be deemed to have granted Rights to the entity assisting Subscriber with creating its account and initiating Subscriber’s access to Services.

2. **TERMS.** This Section governs Subscriber’s granting of Rights as a Rights Grantor.

2.1 **LIMITED RIGHTS.** A Rights Grantee’s right to access and use the ChargePoint Services for and on behalf of a Rights Grantor is limited to the specific Rights granted by such Rights Grantor to such Rights Grantee. Such Rights may be limited according to the Cloud Plan(s) subscribed to by Subscriber. Subscriber may revoke Rights, or any portion thereof, it has granted to a Rights Grantee at will and such Rights will thereafter be terminated with respect to such Rights Grantee. In no event may Subscriber grant Rights in excess of those provided to it through the Cloud Plan(s) to which it has subscribed.

2.2 **RESPONSIBILITY FOR AUTHORIZED USER.** All use of the ChargePoint Services by a Rights Grantee exercising Rights granted by Subscriber shall be subject to the terms and conditions of the Agreement (including without limitation Subscriber’s indemnification obligation pursuant to Section 10 thereof). Subscriber shall be responsible for the actions, omissions, or performance of such Rights Grantee while exercising any such Rights, as if such action, omission or performance had been committed by Subscriber directly.

2.3 **NO AGREEMENT.** Subscriber acknowledges and agrees that the ChargePoint Services merely enable a Rights Grantor to extend Rights to Rights Grantees. The mere extension of such Rights by a Rights Grantor to a Rights Grantee does not constitute an agreement between Rights Grantor and the Rights Grantee with respect to the granted Rights or the exercise of such Rights by the Rights Grantee. CPI does not, either through the terms of the Agreement or the provision of ChargePoint Services undertake to provide any such agreement. It is the responsibility of the Rights Grantor and the Rights Grantee to enter into such an agreement on terms mutually acceptable to each. CPI expressly undertakes no liability with respect to such an agreement and Rights Grantor fully and unconditionally releases CPI from any liability arising out of such an agreement. Further Rights Grantor agrees to indemnify and hold CPI, its officers, directors, agents, affiliates, distribution partners, licensors and suppliers harmless from and against any and all claims, actions, proceedings, costs, liabilities, losses and expenses (including, but not limited to, reasonable attorneys’ fees) (collectively, “Claims”) suffered or incurred by such indemnified parties resulting from or arising out of such agreement.

CHARGEPOINT AS A SERVICE AGREEMENT

This ChargePoint as a Service Agreement (this “Agreement”) is made and entered into by and between the corporation, partnership or other legal entity you represent (“Subscriber” or Customer), and the applicable ChargePoint entity or entities (“CPI” or “ChargePoint”) which can be found in Section 16 below”) as of the date this Agreement executed by the Parties (the “Effective Date”). Subscriber and CPI are each sometimes referred to herein as a “Party” and collectively as the “Parties.”

PURPOSE OF THE AGREEMENT

This Agreement describes the terms and conditions pursuant to which ChargePoint will provide electric vehicle (“EV”) charging services to EV drivers (the “Service”). Under the terms of the Service, Subscriber will be entitled to select the locations (each, a “Location”), and the prices, at which EV drivers may charge. The Service is offered as a subscription. In order to deliver the Service, ChargePoint will install one or more EV charging stations (“Charging Stations”) at each Location after consultation with, and at Locations acceptable to, Subscriber.

1. AGREEMENT TERM; SUBSCRIPTION TERM; EXHIBITS.

1.1. CPI offers subscriptions to Services for a term agreed to by CPI and Subscriber (each, a “Subscription”). CPI shall provide the Service to Subscriber throughout the entire period of the applicable Subscription. Except as set forth in Section 6, a Subscription is binding and may not be canceled. In case of any attempted early cancellation or termination of a Subscription by Subscriber not otherwise permitted under Section 6 of this Agreement, Subscriber must pay the remaining balance of the subscription fees for the applicable Subscription.

1.2. Each Subscription will commence ninety (90) days from the invoice date, as described under Section 2.1, and will last for the applicable term purchased. All renewal Subscriptions will begin on the day following the expiration date of an applicable Subscription (the “Renewal Date”).

1.3. This Agreement includes the following Exhibits, which are made a part of, and are hereby incorporated into, this Agreement by reference. In the event of any conflict between this Agreement and any Exhibit, this Agreement shall prevail. Capitalized terms not otherwise defined in an Exhibit shall have the meaning ascribed to them in this Agreement.

1. Exhibit 1: Flex Billing
2. Exhibit 2: Terms Regarding Granting and Receipt of Rights
3. Exhibit 3: Insurance Policy Requirements

2. INVOICING; PAYMENT.

2.1. Subscriber will be billed, annually in advance, for subscription fees for an applicable Subscription. ChargePoint will invoice Subscriber on or after the date the applicable Charging Station(s) associated with an applicable Subscription is shipped to Subscriber. Thereafter,

ChargePoint will invoice Subscriber on the Renewal Date. All invoices are due within thirty (30) days of the invoice date.

2.2. Invoices not paid when due are subject to interest at the rate of one and one-half percent (1.5%) per month or, if less, the highest rate allowed under applicable law. If any amount owing by Subscriber under this Agreement is more than thirty (30) days overdue, CPI may, without otherwise limiting CPI's rights or remedies, terminate the subscription, suspend the provision of the Service, and/or enter onto Subscriber's premise for the purpose of reclaiming the Charging Stations. Subscriber shall be liable for all costs, including reasonable attorneys' fees and Charging Station recovery fees, incurred by CPI in connection with its efforts to collect any past due amounts. Subscriber is required to pay all amounts due and owing during its chosen Subscription Term regardless of whether it is using the Service.

3. INSTALLATION AND MAINTENANCE OF CHARGING STATIONS.

3.1. Site Preparation and Installation of Charging Stations.

3.1.1. After consultation with Subscriber, parking spaces at an applicable Location will be designated (the "Designated Parking Spaces") for installation of the Charging Stations. Before installation, Subscriber shall be responsible for performing Site Preparation, as described below. For Subscriber's convenience only CPI may provide contact information of certain operations and maintenance partners (each, a "CPI Partner"), who can assist Subscriber with Site Preparation. All Site Preparation services, whether performed by a CPI Partner or other third party, on behalf of Subscriber shall be performed pursuant to a separate agreement between such CPI Partner or other third party and Subscriber ("Separate Agreement"). The Parties agree that, in providing such information, CPI makes no representation or warranty of any kind, nor does CPI take or assume any liability in connection with the Separate Agreement. For purposes of this Agreement, the term "Site Preparation" shall mean, without limitation, performing any electrical service upgrades, installing conduit runs, running wiring, installing cell repeaters, ensuring cellular coverage and other site work necessary to provide adequate power and connectivity to each of the Designated Parking Spaces according to CPI's published Site Design Guide specifications. Please visit CPI's training website available at <https://chargepoint.ent.box.com/v/cp-university> for instructions on how to access CP University and access to the relevant Site Design Guide specifications.

3.1.2. After Subscriber completes Site Preparation, Subscriber will notify ChargePoint that Charging Stations may be installed at the Designated Parking Spaces. Notice must be provided with the Construction Signoff Form found at www.chargepoint.com/guides/. If Subscriber does not use a ChargePoint Partner to complete Site Preparation and if ChargePoint attempts to install the Charging Stations but is unable to do so because the Site Preparation has not been completed in accordance with ChargePoint's published specifications, Subscriber agrees to pay a re-dispatch fee of \$300 within thirty (30) days of receipt of ChargePoint's invoice for such fee. Once the applicable Charging Station(s) have been installed, Subscriber may not move the Charging Stations from the Designated Parking Spaces. Charging Stations and replacement parts installed pursuant to this Agreement may be new or refurbished and equivalent to new in performance and reliability.

3.2 Maintenance of Charging Stations

3.2.1. ChargePoint shall ensure that the Charging Stations function in the manner required to provide the Service. In the event Subscriber knows of or becomes aware of any malfunctioning Charging Station, Subscriber shall promptly notify CPI of such malfunction. ChargePoint will respond to Subscriber within 1 (one) business day of learning of a malfunctioning Charging Station. Subscriber will cooperate with CPI, so that CPI may remotely diagnose an issue with the Charging Station. ChargePoint is responsible for servicing, repairing, modifying, and adjusting Charging Stations. Subscriber shall not directly or indirectly service, repair, modify or adjust any Charging Station. ChargePoint's obligations include providing labor and parts coverage for vandalism, damage or other problems caused by accidents or negligence; provided that, ChargePoint reserves all rights to charge Subscriber for all costs incurred for unauthorized services, repairs, modifications and adjustments to the Charging Station caused by Subscriber, its employees, agents.

3.2.2. ChargePoint's obligations under this Section 3 do not include repairing, replacing monitoring or servicing anything other than the Charging Stations. For example, ChargePoint will not configure, repair, replace or otherwise maintain repeaters installed by Subscriber as part of the Site Preparation Process.

3.2.3. Subscriber agrees that it shall not interfere with, or cause its employees or agents to interfere with, CPI's performance of maintenance services, or in any other way interfere with CPI's responsibilities under this Agreement.

3.2.4. Subscriber agrees to provide CPI or its service partners with access, during normal business hours (9:00 a.m. to 5:00 p.m., Monday to Friday), to the Charging Stations to perform required maintenance work. In addition, Subscriber shall designate and keep current a Subscriber manager in its ChargePoint Cloud Service account, who shall act as Subscriber's sole liaison with CPI for those matters covered by this Agreement.

3.2.5 Subscriber agrees, at its own expense and at all times during the Subscription, to keep public areas, parking spaces, streets and sidewalks appurtenant to the Designated Parking Spaces reasonably free of debris and rubbish and in good repair and condition.

4. **CLOUD SERVICES.** During a Subscription, ChargePoint shall make available to Subscriber the software-as-a-service offering ("ChargePoint Cloud Service") that will permit Subscriber to, among other things, designate who may use the Charging Stations to charge an electric vehicle and the price charged for such use. The ChargePoint Cloud Services are an integral part of the Service and all references in this Agreement to the Service shall be deemed to include a reference to the ChargePoint Cloud Services.

5. **RESPONSIBILITIES AND AGREEMENTS.**

5.1 **OPERATION OF THE CHARGEPOINT NETWORK.** In addition to maintenance obligations set forth in Section 3 of this Agreement, CPI shall be solely responsible for: (i)

provisioning and operating, maintaining, administering and supporting the open-platform network of electric vehicle charging stations and the vehicle charging applications the network delivers, that is operated and maintained by CPI (the “ChargePoint Network”); (ii) provisioning and operating, maintaining, administering and supporting the applications offered on the Cloud Services; and (iii) operating the ChargePoint Network in compliance with all applicable laws. CPI will protect the confidentiality and security of all personally identifiable information in accordance with all applicable laws and regulations and the CPI Privacy Policy.

5.2 LIMITATIONS ON RESPONSIBILITY. CPI shall not be responsible for, and makes no representation or warranty with respect to the following: (i) continuous availability of electrical service to any of Subscriber’s Charging Stations; (ii) continuous availability of any wireless or cellular communications network or Internet service provider network necessary for the continued operation by CPI of ChargePoint; and (iii) availability of or interruption of the ChargePoint Network attributable to unauthorized intrusions.

5.3 SUBSCRIBER’S RESPONSIBILITIES AND AGREEMENTS FOR CLOUD SERVICES

5.3.1 GENERAL. All use of the ChargePoint Cloud Services by Subscriber, its employees and agents shall comply with this Agreement. All ChargePoint Cloud Services account details, passwords, keys, etc. are granted to Subscriber solely for Subscriber’s own use, and Subscriber shall keep all such items secure and confidential. Subscriber shall use reasonable efforts to prevent, and shall be fully liable to CPI for, any unauthorized access to, use of or damage to the ChargePoint Network or ChargePoint Cloud Services arising as a result of Subscriber’s breach of its obligations as a result its failure to comply with its obligations under this Section 5.3.1. Subscriber shall immediately notify CPI upon becoming aware of any such unauthorized use.

5.3.2 USE RESTRICTIONS AND LIMITATIONS OF CLOUD SERVICES. Subscriber shall not:

a) sell, resell, license, rent, lease or otherwise transfer the Services or any data collected or maintained by CPI in connection with the operation of ChargePoint therein to any third party;

(b) interfere with or disrupt the Services, the ChargePoint Network, servers, or networks connected to the ChargePoint Cloud Services, or disobey any requirements, procedures, policies, or regulations of networks connected to the ChargePoint Network;

(c) attempt to gain unauthorized access to the ChargePoint Network or the Services or related systems or networks or any data contained therein, or access or use the Services through any technology or means other than those provided or expressly authorized by CPI;

(d) reverse engineer, decompile or otherwise attempt to extract the source code of the Services, including, without limitation, the Charging Stations and cloud services, or any part thereof, except to the extent expressly permitted or required by applicable law;

(e) create derivative works based on the ChargePoint Network, the Services, or any of ChargePoint’s various trademarks, service marks, trade names, logos, domain names, and other

distinctive brand features and designations used in connection with ChargePoint and/or CPI manufactured Charging Stations, (the “CPI Marks”) and all other CPI-supplied material developed by CPI;

(f) remove, conceal or cover the CPI Marks or any other markings, labels, legends, trademarks, or trade names installed or placed on the Charging Stations or any peripheral equipment for use in connection therewith;

(g) except as otherwise expressly permitted by this Agreement or in any applicable data sheet relating to the Service, copy, frame or mirror any part of the Service, other than copying or framing on Subscriber’s own intranets or otherwise solely for Subscriber’s own internal business use and purposes;

(h) access the ChargePoint Network, any part of the Services for any competitive purpose, or for any improper purpose whatsoever, including, without limitation, in order to build a competitive product or service or copy any features, functions, interface, graphics or “look and feel;”

(i) use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the Services or collect information about ChargePoint users for any unauthorized purpose;

(j) upload, transmit or introduce any malicious code to ChargePoint or Services;

(k) use any of the Services if Subscriber is a person barred from such use under the laws of the United States or of any other jurisdiction; or

(l) use the ChargePoint Cloud Services to upload, post, display, transmit or otherwise make available (i) any inappropriate, defamatory, obscene, or unlawful content; (ii) any content that infringes any patent, trademark, copyright, trade secret or other proprietary right of any party; (iii) any messages, communication or other content that promotes pyramid schemes, chain letters, constitutes disruptive commercial messages or advertisements, or is prohibited by applicable law, the Agreement or the Documentation.

(m) Utilize the Content for any other purpose other than Subscriber’s internal business purpose.

5.3.3 OWNERSHIP OF CONTENT. ChargePoint shall own and hold all right, title and interest in and to the following:

(a) Content, including all data collected or maintained by CPI in the operation of ChargePoint, the Services and the Charging Stations; and

(b) CPI Property, including (i) ChargePoint, (ii) the Services, (iii) all data generated or collected by CPI in connection with the operation of ChargePoint and the Services, (iv) the CPI Marks and (v) all other CPI-supplied material developed or provided by CPI for Subscriber’s use in connection with the Services.

5.3.4 LIMITED LICENSE TO CPI. Subscriber hereby grants to CPI a non-assignable, non-transferable, and non-exclusive license to use the Subscriber’s property solely in accordance with the terms of this Agreement (including without limitation all limitations and restrictions on such use) to the extent necessary for CPI to provide the Services. CPI may utilize the

various trademarks, service marks, trade names, logos, domain names, and other distinctive brand features and designations used by Subscriber in connection with its business (the “Subscriber Marks”) to advertise that Subscriber is using the Services. CPI shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable perpetual license to use or incorporate in the Services any suggestions, enhancement requests, recommendations or other feedback provided by Subscriber or Subscriber Rights Grantees relating to the Services.

5.3.5 ADDITIONAL TERMS REGARDING CPI MARKS.

(a) **USE LIMITATIONS.** Subscriber shall not use any of the CPI Marks for or with any products, except in the manner permitted pursuant to CPI’s usage guidelines. From time to time, CPI may provide updated CPI Mark usage guidelines, and Subscriber shall thereafter comply with such updated guidelines. For any use of the CPI Mark not authorized by such guidelines, or if no such guidelines are provided, then for each initial use of the CPI Mark, Subscriber must obtain CPI’s prior written consent, and after such consent is obtained, Subscriber may use the CPI Mark in the approved manner. All use by Subscriber of CPI’s Marks (including any goodwill associated therewith) will inure to the benefit of CPI.

(b) **PROHIBITIONS.** Subscriber shall not use or display any CPI Mark (or any likeness of a CPI Mark):

(i) as a part of the name under which Subscriber’s business is conducted or in connection with the name of a business of Subscriber or its affiliates;

(ii) in any manner that (x) implies a relationship or affiliation with CPI other than as described under the Agreement, (y) implies any sponsorship or endorsement by CPI, or (z) can be reasonably interpreted to suggest that any Subscriber content and services has been authored by, or represents the views or opinions of CPI or CPI personnel;

(iii) in any manner intended to disparage CPI, the ChargePoint Network, or the Services, or in a manner that is misleading, defamatory, infringing, libelous, disparaging, obscene or otherwise objectionable to CPI;

(iv) in any manner that violates any law or regulation; or

(v) that is distorted or altered in any way (including squeezing, stretching, inverting, discoloring, etc.) from the original form provided by CPI.

(c) **NO REGISTRATION OF CPI MARKS.** Subscriber shall not, directly or indirectly, register or apply for, or cause to be registered or applied for, any CPI Marks or any patent, trademark, service mark, copyright, trade name, domain name or registered design that is substantially or confusingly similar to a CPI Mark, patent, trademark, service mark, copyright, trade name, domain name or registered design of CPI, or that is licensed to, connected with or derived from confidential, material or proprietary information imparted to or licensed to Subscriber by CPI. At no time will Subscriber challenge or assist others to challenge the CPI Marks (except to the extent such restriction is prohibited by law) or the registration thereof by CPI.

(d) TERMINATION AND CESSATION OF USE OF CPI MARKS. Upon termination of this Agreement, Subscriber will immediately discontinue all use and display of all CPI Marks.

5.3.6 ELECTRICAL, CELLULAR AND INTERNET SERVICE INTERRUPTIONS. Neither CPI nor Subscriber shall have any liability whatsoever to the other with respect to damages caused by: (i) electrical outages, power surges, brown-outs, utility load management or any other similar electrical service interruptions, whatever the cause; (ii) interruptions in wireless or cellular service linking Charging Stations to the ChargePoint Network; (iii) interruptions attributable to unauthorized ChargePoint Network intrusions; (iv) interruptions in services provided by any internet service provider not affiliated with CPI; or This includes the loss of data resulting from such electrical, wireless, cellular or Internet service interruptions.

5.3.7 CELLULAR CARRIER LIABILITY. IN ORDER TO DELIVER THE CHARGEPOINT SERVICES, CPI HAS ENTERED INTO CONTRACTS WITH ONE OR MORE UNDERLYING WIRELESS SERVICE CARRIERS (THE "UNDERLYING CARRIER"). SUBSCRIBER HAS NO CONTRACTUAL RELATIONSHIP WITH THE UNDERLYING CARRIER AND CUSTOMER IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN CPI AND THE UNDERLYING CARRIER. SUBSCRIBER UNDERSTANDS AND AGREES THAT THE UNDERLYING CARRIER HAS NO LIABILITY OF ANY KIND TO SUBSCRIBER, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE. SUBSCRIBER HAS NO PROPERTY RIGHT IN ANY NUMBER ASSIGNED TO IT, AND UNDERSTANDS THAT ANY SUCH NUMBER CAN BE CHANGED. SUBSCRIBER UNDERSTANDS THAT CPI AND THE UNDERLYING CARRIER CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE CHARGEPOINT SERVICES.

6. RENEWAL AND TERMINATION.

6.1 Upon the expiration of a Subscription, unless ChargePoint has received Subscriber's notice of intent not to renew sixty (60) days prior to the expiration of an applicable Subscription, the Subscription will auto renew and ChargePoint shall invoice Subscriber for a new one-year Subscription, with subscription fees set at the current list price for the subscription. Annual list price increases for a Subscription will be limited to the greater of (i) five percent (5%) or (ii) the aggregate increase in the consumer price index during the immediately preceding Subscription Term. This Agreement may be immediately terminated by Subscriber for cause if (i) CPI is in material breach of any of its obligations under this Agreement and has not cured such breach within thirty (30) days of the date of its receipt of written notice thereof from Subscriber, or (ii) CPI becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors. Any notice of termination of this Agreement by Subscriber pursuant to this Section 6.1 shall be sent to the address for notices set forth below in Section 20.

6.2 This Agreement may be immediately terminated by Subscriber for cause if (i) CPI is in material breach of any of its obligations under this Agreement and has not cured such breach within thirty (30) days of the date of its receipt of written notice thereof from Subscriber, or (ii) CPI becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors. Any notice of termination of this Agreement by Subscriber pursuant to this Section 6.1 shall be sent to the address for notices set forth below in Section 20.

Upon any termination of this Agreement for cause by Subscriber pursuant to this Section 6.2, CPI shall refund a pro-rata portion of any pre-paid subscription fees.

6.3 This Agreement may be immediately terminated by CPI: (i) if Subscriber is in material breach of any of its obligations under this Agreement, and has not cured such breach within thirty (30) days of Subscriber's receipt of written notice thereof; (ii) Subscriber becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or an assignment for the benefit of creditors; or (iii) as otherwise explicitly provided in this Agreement.

6.4 Subscriber hereby grants CPI the right, upon termination of this Agreement, and upon the termination of any Subscription that Subscriber elects not to renew, to enter the Location for the purpose of removing the Charging Stations and any equipment owned by CPI, and any other ancillary property of CPI relating thereto. Within thirty (30) days of termination of a Subscription, ChargePoint and Subscriber will engage in good faith to schedule a date upon which such Charging Stations from the Location. CPI will remove such Charging Stations and other equipment at no cost to Subscriber. Upon termination of a Subscription, Subscriber shall immediately cease its use of all Services related to such Subscription and CPI will no longer be bound to deliver the Services under such Subscription. Subscriber agrees that it shall not interfere with, and will cause its employees and agents not to interfere with, CPI in conjunction with the service, maintenance, or removal of the Charging Stations, or in any other way interfere with CPI's responsibilities under this Agreement.

7. INDEMNIFICATION.

7.1 "Damages" shall mean any injury, wound, wrong, hurt, harm, fee, damages, cost, expense, expenditure, or loss of any nature, including, but not limited to: (i) injury or damage to any property or right; and (ii) injury, damage or death to any person or entity, (iii) attorneys' fees, witness fees, expert witness fees and expenses; and (iv) all other litigation costs and expenses.

7.2 "Claims" shall mean all claims, requests, accusations, allegations, assertions, complaints, petitions, demands, suits, actions, proceedings, and causes of action of every kind and description.

7.3 Subscriber shall indemnify, defend and hold CPI and its affiliates, and any of their respective present and former directors, officers, members, shareholders, employees, representatives and agents, and all of its and their successors and assigns, harmless from and against any and all

Damages from third-party Claims which arise out of or relate to: (i) Subscriber's negligent acts or omissions, recklessness or willful misconduct; or (ii) the loss of life or any injury to persons or property due to conditions existing at the Location, including the Designated Parking Spaces, unless any such Damages arise out of or relate to CPI's negligence or willful misconduct.

7.4 CPI shall indemnify, defend, and hold Subscriber harmless from and against any and all Damages from third-party Claims that result from or arise out of the actual or alleged misappropriation or infringement of any intellectual property rights in connection with the Service.

7.5 The obligations under this Section shall survive the termination or expiration of this Agreement.

8. **OWNERSHIP OF CHARGING STATIONS.** The Charging Stations are and shall remain the personal property of CPI, regardless of the manner in which they may be attached to any other property. Subscriber shall not permit any levy, lien, or other legal process to be attached to the Charging Stations and shall immediately notify ChargePoint if any of the foregoing shall occur. Subscriber acknowledges that, for purposes of the Uniform Commercial Code, the Charging Stations are provided to Subscriber pursuant to a subscription service, and not a secured financing. ChargePoint may make such filings under the Uniform Commercial Code, and in such jurisdictions, as it deems necessary in its sole discretion.

9. **INTELLECTUAL PROPERTY.**

9.1 Subscriber shall not: (i) create derivative works based on any of ChargePoint's intellectual property rights, including, without limitation, the Service, Charging Stations, Cloud Services, patents, patent applications, patent rights, trademarks, trademark applications, trade names, service marks, service mark applications, copyrights, copyright applications, franchises, licenses, inventories, know-how, trade secrets, customer lists, proprietary processes and formulae, all source and object code, algorithms, architecture, structure, display screens, layouts, inventions, URL links, websites, development tools and all documentation and media constituting, describing or relating to the above, including, without limitation, manuals, memoranda and records (collectively the "Intellectual Property") (ii) copy, frame or mirror any part or content of the Intellectual Property, (iii) reverse engineer any Intellectual Property right or (iv) access the Intellectual Property for any improper purpose whatsoever, including, without limitation, in order to (a) build a competitive product or service, or (b) copy any features, functions, interface, graphics or "look and feel" of ChargePoint's Intellectual Property.

9.2 All right, title and interest in the Intellectual Property shall remain, the exclusive property of ChargePoint.

10. **EXCLUSIVE RIGHT.** During the Subscription Term, Subscriber will not permit anyone other than CPI to provide, maintain, service or operate any electric vehicle charging stations at the Location.

11. **LICENSES; PERMITS.** Subscriber agrees that it shall obtain any and all necessary licenses and/or permits for the make ready electrical work, installation, and operation of the Charging Stations.

12. **INJUNCTIVE RELIEF.** The Parties recognize that the obligations under this Agreement are special, unique and of extraordinary character. The Parties acknowledge the difficulty in forecasting damages arising from the breach of any of the obligations or restrictive covenants and that the non-breaching Party may be irreparably harmed thereby. Therefore, the Parties agree that the non-breaching Party shall be entitled to elect to enforce each of the obligations and restrictive covenants by means of injunctive relief or an order of specific performance and that such remedy shall be available in addition to all other remedies available at law or in equity, including the recovery of damages from the non-breaching Party's agents or affiliates involved in such breach. In such action, the non-breaching party shall not be required to plead or prove irreparable harm or lack of an adequate remedy at law or post a bond or any security.

13. **REPRESENTATIONS & WARRANTIES.**

13.1 CPI represents and warrants to Subscriber that it has the appropriate legal authority to execute this Agreement, that it has all requisite licenses and permits to perform pursuant to this Agreement, that it is not bound by any other agreement which precludes it from complying with the terms and conditions contained herein, and that it will perform under this Agreement in compliance with any applicable laws, rules, regulations, or ordinances.

13.2 Subscriber represents and warrants to CPI that it has the appropriate legal authority to execute and be bound by this Agreement, it has the full power and authority to permit CPI to install Charging Stations at the Designated Parking Spaces, that it has all requisite licenses and permits to perform pursuant to this Agreement, the electrical usage consumed by the Charging Stations will not violate or otherwise conflict with the terms and conditions of any other agreement, that it is not bound by any other agreement which precludes it from complying with the terms and conditions contained herein, and that it will perform under this Agreement in compliance with any applicable laws, rules, regulations or ordinances.

14. **ENVIRONMENTAL ATTRIBUTES.** CPI is the owner of the Charging Stations provided under this Agreement and retains any and all rights to claim environmental attributes associated with the use of the Charging Stations, including, without limitation, carbon offset and other credits.

15. **BINDING.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns

16. **GOVERNING LAW; ARBITRATION.** The ChargePoint entity entering into this Agreement, the address to which Subscriber should direct notices under this Agreement, the governing law, and place of jurisdiction, shall be determined according to where the Subscriber is domiciled:

If Subscriber is domiciled in:	The CPI Entity entering into this Agreement is:	Notices should be addressed to:	Governing law is:	Place of jurisdiction:	Forum:
The United States of America	ChargePoint, Inc., a Delaware corporation	Attn: Legal Department ChargePoint, Inc. 254 E Hacienda Ave Campbell, CA 95008	California and controlling United States federal law	Santa Clara, California, U.S.A.	Judicial Arbitration and Mediation Services, Inc. (JAMS)
Canada	ChargePoint Canada, Inc., a British Columbia corporation	Attn: Legal Department ChargePoint, Inc. 254 E Hacienda Ave Campbell, CA 95008	British Columbia and controlling Canadian federal law	Vancouver, British Columbia, Canada	ADR Institute of Canada

This Agreement, and any disputes related to this Agreement, will be governed by the applicable Governing Laws above, without regard to conflicts of laws rules or the United Nations Convention on the International Sale of Goods.

Except with respect to any matter relating to Subscriber’s violation of the intellectual property rights of CPI, any disputes, actions, claims or causes of action arising out of or in connection with this Agreement shall be submitted to and finally settled by arbitration using the English language in accordance with the Arbitration Rules and Procedures of the applicable Forum above then in effect, by one or more commercial arbitrator(s) with substantial experience in the industry and in resolving complex commercial contract disputes. Judgment upon the award so rendered may be entered in a court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. All claims shall be brought in the parties’ individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. With respect to any matter relating to the intellectual property rights of CPI, such claim may be litigated in a court of competent jurisdiction. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys’ fees and costs.

Notwithstanding the foregoing, each party shall have the right to institute an action in any court of proper jurisdiction for injunctive relief.

17. LIMITATIONS OF LIABILITY.

17.1 Disclaimers of Warranties. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR PROHIBITED BY APPLICABLE LAW, CPI EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY MADE, OR THAT MAY HAVE BEEN MADE, IN CONNECTION WITH THIS AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, UNINTERRUPTED SERVICE, AND ANY WARRANTY ARISING OUT OF A COURSE OF PERFORMANCE, DEALING OR TRADE USAGE.

17.2 Exclusion of Consequential Damages. EXCEPT AS PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL CPI BE LIABLE TO SUBSCRIBER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION FOR THE LOSS OF DATA, BUSINESS INTERRUPTION, OR LOST PROFITS, THAT IN ANY WAY ARISE OUT OF OR RELATE TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF RELIEF, WHETHER OR NOT CPI HAS BEEN ADVISED TO THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF ANY CLAIM OR FINDING THAT A REMEDY SUFFERS A FAILURE OF ITS ESSENTIAL PURPOSE. NOTWITHSTANDING THE FOREGOING, THIS SECTION SHALL NOT APPLY WITH RESPECT TO ANY DAMAGES WHICH ARISE OUT OF OR RELATE TO CPI'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

17.3 Limitation of Liability. CPI's aggregate liability under this Agreement shall not exceed the aggregate subscription fees paid by Subscriber to CPI in the twelve (12) calendar months prior to the event giving rise to the liability.

18. **NOTICES.** Any notice required to be given or otherwise given pursuant to this Agreement shall be in writing and shall be hand delivered, mailed by certified mail, return receipt requested or sent recognized overnight courier service as follows:

If to CPI:

Construction Signoff Form
ChargePoint, Inc.
c/o Site Readiness Department
7350 N. Dobson Road, Suite 104,
Scottsdale, AZ 85256
installdispatch@chargepoint.com

Non-Renewal and Termination Notices
ChargePoint, Inc.
csam@chargepoint.com

If to Subscriber:

If to Subscriber, to the billing address
and contact on file.

All other notices
Attn: Legal Department
ChargePoint, Inc.
254 E Hacienda Ave
Campbell, CA 95008

19. **INSURANCE.** At all times during the Subscription Term of this Agreement, the Parties shall keep and maintain insurance described in Exhibit 3, or higher if required by law. Upon request, the Parties shall furnish, a certificate of insurance evidencing such insurance is in full force and effect.

20. **RELATIONSHIP OF PARTIES.** Nothing in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the Parties hereto or constitute or be deemed to constitute any Party the agent or employee of the other Party for any purpose whatsoever, and neither Party shall have authority or power to bind the other or to contract in the name of, or create a liability against, the other in any way or for any purpose.

21. **FORCE MAJEURE.** If either Party shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of any strike, lockout, labor trouble, inability to procure materials or energy, failure of power, hurricane, restrictive governmental laws or regulations, riot, insurrection, picketing, sit-ins, war or other unavoidable reason of a like nature not attributable to the negligence or fault of such Party, then the performance of such work or action will be excused for the period of the unavoidable delay and the period for the performance of any such work or action will be extended for an equivalent period.

22. **EXHIBITS.** All exhibits attached to this Agreement and referred to herein are hereby incorporated by reference as if fully set forth herein. Any exhibit not annexed hereto may be attached after the Effective Date hereof and which shall thereafter be incorporated by reference herein.

23. **NO THIRD-PARTY RIGHTS.** The provisions of this Agreement are for the exclusive benefit of CPI and Subscriber only, and no other party shall have any right or claim against either Party or be entitled to enforce any provisions hereunder against any Party hereto.

24. **HEADINGS.** The headings in this Agreement are used for convenience only and shall not be used to define, limit, or describe the scope of this Agreement or any of the obligations herein.

25. **FINAL AGREEMENT.** This Agreement constitutes the final understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings, and agreements between the parties, whether written or oral. This Agreement may be amended, supplemented or changed only by an agreement in writing signed by both of the parties.

26. **SEVERABILITY.** If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms and provisions, shall remain in full force and effect as if such invalid or unenforceable term had never been included.

27. **CONFIDENTIALITY.**

27.1 Subscriber acknowledges that all terms and conditions of this Agreement (the “Confidential Information”) shall be deemed confidential and may not be disclosed to third parties. Subscriber recognizes that CPI has legitimate business interests in protecting the Confidential Information, and as a consequence, Subscriber expressly agrees to the restrictions contained in this Agreement because they further CPI’s legitimate business interests. The provisions of this Section 27.1 shall survive the expiration or other termination of this Agreement.

27.2 Notwithstanding anything in this Agreement to the contrary, Subscriber may disclose Confidential Information: (i) as required by any court or other governmental body; (ii) as otherwise required by law; (iii) to legal counsel of Subscriber; (iv) in confidence, to accountants, banks and financing sources, and its advisors (who are bound by terms of confidentiality at least as strict as those set forth in this Agreement); (v) in connection with the enforcement of this Agreement or rights under this Agreement; or (vi) in confidence, in connection with an actual or proposed merger, acquisition or similar transaction; provided, however, that if Subscriber is required to disclose pursuant to clause (i) or (ii), Subscriber shall provide prompt prior notice thereof, if possible, to CPI to enable CPI at its sole cost to seek a protective order or otherwise prevent or restrict such disclosure.

28. **ASSIGNMENT.** This Agreement may not be assigned by Subscriber without the prior written consent of CPI. Notwithstanding the foregoing, Subscriber may assign this Agreement in connection with the sale of substantially all of its assets, a transfer to an affiliate, a merger, an acquisition, or any other similar transaction; provided that the assignee agrees to be bound by the terms of this Agreement.

29. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts (including, electronic, facsimile, or scanned versions), each of which shall be an original but all of which together will constitute one instrument, binding upon all parties hereto, and notwithstanding that all of such parties may not have executed the same counterpart.

30. **ENGLISH LANGUAGE AGREEMENT GOVERNS.** Where ChargePoint has provided Subscriber with a translation of the English language version of this Agreement, Company agrees that the translation is provided for Subscriber’s convenience only and that the English language version of this Agreement governs Company’s relationship with ChargePoint. If there is any conflict between the English language version of this Agreement. It is the express wish of the Parties that this Agreement and all related documents, including notices and other communications, be drawn up in the English language only. Il est la volonté expresse des parties que cette convention et tous les documents s’y rattachant, y compris les avis et les autres communications, soient rédigés et signés en anglais seulement.

EXHIBIT 1: FLEX BILLING TERMS

This Exhibit sets forth certain additional terms and conditions (“Flex Billing Subscription Terms”) pursuant to which Subscriber may charge Users fees for the use of Subscriber’s Charging Stations. In order to charge such fees, Subscriber must subscribe to a Service Plan that includes CPI’s management, collection and/or processing services related to such fees (“Flex Billing”).

1. DEFINITIONS. The following additional defined terms shall apply to these Flex Billing Subscription Terms:

1.1 “CPI Fees” means a fee, currently equal to ten percent (10%) of Session Fees, charged for a particular Session. CPI Fees are charged by CPI in exchange for its collection and processing of Session Fees on behalf of Subscriber. CPI will provide Subscriber with thirty (30) days prior written notice (which may include, without limitation, notice provided by CPI through its regular newsletter to Subscriber) of any increase in CPI Fees.

1.2 “Net Session Fees” means the total amount of Session Fees collected on behalf of the Subscriber by CPI, less CPI Fees and Taxes, if any, required by law to be collected by CPI from Users in connection with the use of Charging Stations. Except as required by law, Subscriber shall be responsible for the payment of all Taxes incurred in connection with use of Subscriber’s Charging Stations.

1.3 “Session” or “Charging Session” means the period of time during which a User uses Subscriber’s Charging Station to charge his or her electric vehicle for a continuous period of time not less than two (2) minutes commencing when a User has accessed such Charging Station and ending when such User has terminated such access.

1.4 “Session Fees” means the fees set by the Subscriber for a Charging Session, inclusive of any applicable Taxes.

2. FLEX-BILLING SERVICE FOR CHARGING STATIONS.

2.1 SESSION FEES. Subscriber shall have sole authority to determine and set in real-time Session Fees. Subscriber shall be solely responsible for determining and charging Session Fees in compliance with all applicable laws and regulations (including without limitation any restriction on Subscriber’s use of per-kWh pricing). Subscriber acknowledges that CPI is not responsible for informing Subscriber of applicable laws or changes thereto, and CPI will not be liable to Subscriber or any third party for any alleged or actual failure of Subscriber to comply with such applicable laws and regulations.

2.2 DEDUCTIONS FROM SESSION FEES. In exchange for CPI collecting Session Fees on behalf of the Subscriber, the Subscriber hereby authorizes CPI to deduct from all Session Fees collected: (i) CPI Fees and (ii) to the extent required by Section 3, applicable Taxes.

2.3 PAYMENT TO SUBSCRIBER OF NET SESSION FEES. CPI shall remit Net Session Fees to Subscriber not more than thirty (30) days after the end of each calendar month as directed by Subscriber from time to time through the applicable ChargePoint Cloud Services. Notwithstanding the foregoing, no such payment will be required if at the end of any calendar month the amount due to Subscriber hereunder is less than fifty U.S. Dollars/ CAD (\$50), except in connection with the expiration or termination of this Agreement. In no event shall CPI remit amounts due to Subscriber, regardless of the amount then due, later than thirty (30) days following the end of each calendar quarter.

3. TAXES. Subscriber is responsible for the payment of all sales, use, value added, and similar taxes (collectively “Sales Tax”) incurred in connection with Session Fees; provided that CPI is solely responsible for all taxes based on CPI’s income, property and employees. Where CPI is required by law to collect and/or remit Sales Tax for which Subscriber is responsible, the appropriate amount shall be invoiced to Subscriber and deducted by CPI from Session Fees, unless Subscriber has otherwise provided CPI with a valid tax or regulatory exemption certificate or authorization from the appropriate taxing or regulatory authority.

EXHIBIT 2: TERMS REGARDING GRANTING OF RIGHTS

This Exhibit sets forth certain additional terms and conditions applicable to Rights Grantors and Rights Grantees regarding the granting of Rights (“Rights Subscription Terms”). The Rights Subscription Terms are part of the Agreement, and all use of the ChargePoint Cloud Services permitted pursuant to the Rights Subscription Terms remains subject to the Agreement.

1. ADDITIONAL DEFINITIONS. The following additional definitions shall apply.

1.1 “Rights” means the rights, authorizations, privileges, actions, information and settings within the ChargePoint Cloud Services which a Rights Grantor grants to a Rights Grantee, to enable such Rights Grantee to access, obtain and use certain portions of the ChargePoint Cloud Services and certain information available therein in the course of providing services to or on behalf of such Rights Grantor in connection with one or more of the Charging Stations.

1.2 “Rights Grantor” means Subscriber.

1.3 “Rights Grantee” means any person to whom Subscriber has granted Rights. For purposes of this Agreement, a Subscriber shall be deemed to have granted Rights to the entity assisting Subscriber with creating its account and initiating Subscriber’s access to Services.

2. TERMS.

2.1 LIMITED RIGHTS. A Rights Grantee’s right to access and use the ChargePoint Cloud Services for and on behalf of a Rights Grantor is limited to the specific Rights granted by such Rights Grantor to such Rights Grantee. Such Rights may be limited according to the Service Plan(s) subscribed to by Subscriber. Subscriber may revoke Rights, or any portion thereof, it has granted to a Rights Grantee at will and such Rights will thereafter be terminated with respect to such Rights Grantee. In no event may Subscriber grant Rights in excess of those provided to it through the Service Plan(s) to which it has subscribed.

2.2 RESPONSIBILITY FOR AUTHORIZED USER. All use of the ChargePoint Cloud Services by a Rights Grantee exercising Rights granted by Subscriber shall be subject to the terms and conditions of the Agreement (including without limitation Subscriber’s indemnification obligation pursuant to Section 10 thereof). Subscriber shall be responsible for the actions, omissions, or performance of such Rights Grantee while exercising any such Rights, as if such action, omission or performance had been committed by Subscriber directly.

2.3 NO AGREEMENT. Subscriber acknowledges and agrees that the ChargePoint Cloud Services merely enable a Rights Grantor to extend Rights to Rights Grantees. The mere extension of such Rights by a Rights Grantor to a Rights Grantee does not constitute an agreement between Rights Grantor and the Rights Grantee with respect to the granted Rights or the exercise of such Rights by the Rights Grantee. CPI does not, either through the terms of the Agreement or the provision of ChargePoint Cloud Services undertake to provide any such agreement. It is the responsibility of the Rights Grantor and the Rights Grantee to enter into such an agreement on terms mutually acceptable to each. CPI expressly undertakes no liability with respect to such an agreement and Rights Grantor fully and unconditionally releases CPI from any liability arising out of such an

agreement. Further Rights Grantor agrees to indemnify and hold CPI, its officers, directors, agents, affiliates, distribution partners, licensors and suppliers harmless from and against any and all claims, actions, proceedings, costs, liabilities, losses and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Claims") suffered or incurred by such indemnified parties resulting from or arising out of such agreement.

EXHIBIT 3: INSURANCE REQUIREMENTS

Commercial General Liability

Limits:	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate and Products/ Completed Operations Aggregate (Separately)
Coverage:	Occurrence Form, Commercial General Liability including Personal Injury, Products Liability, Completed Operations, Contractual and Property Damage Coverage. Should provide primary (and not contributing) coverage, containing cross-liability and severability of interest clauses.
Per Location Limits:	General Aggregate Limit applies per location.

Automobile Liability

Bodily Injury & Property Damage Combined Single Limit -	\$1,000,000 Each Accident
Coverage:	Comprehensive Form including Employer's Non-Owned & Hired Liability providing primary (and not contributing) coverage, containing cross-liability and severability of interest clauses.

Workers Compensation: Statutory Benefits

Employers' Liability: \$500,000 Employers' Liability

This Workers' Compensation and Employer's liability insurance must contain a waiver by the insurer of all rights of legal and conventional subrogation against Client and Property Management Company.

Umbrella/Excess Liability:

\$5,000,000 Each Occurrence
\$5,000,000 Aggregate

Forms for All Coverages: Copy of specific applicable additional insured endorsement and waiver of subrogation endorsement must be attached and noted on Certificate of Insurance.