

CHARGEPOINT®
MASTER SERVICES AND SUBSCRIPTION AGREEMENT

This MASTER SERVICES AND SUBSCRIPTION AGREEMENT is between the State of Oregon ("State"), acting by and through its Department of Administrative Services ("Subscriber"), and ChargePoint, Inc., a Delaware corporation ("CPI"). This Agreement is effective on the date that it has been fully executed by the parties and approved as required by law ("Effective Date").

1. AGREEMENT.

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

- (a) Provisioning of Subscriber's Charging Stations on ChargePoint;
- (b) Activation and use of the ChargePoint Services on Subscriber's Charging Stations;
- (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 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, its employees, and members of the public.

2.5 "ChargePoint Services" means, collectively, the various cloud services offerings (including, without limitation, APIs and application service 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 stations owned or operated by Subscriber 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 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 **"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.

2.13 **"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.

2.14 **"Party"** means each of CPI and Subscriber.

2.15 **"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. "PII" includes "Personally Identifiable Information" as defined in ORS 319.915 and "Personal Information" as defined in the Oregon Consumer Identity Theft Prevention Act, ORS 646A.602.

2.15 **"Provisioning"** means activating Charging Stations, warranties and Service Plans on ChargePoint.

2.16 **"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.

2.17 **"Service Plans"** 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.

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

2.19 "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 or Charging Stations.

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

2.21 "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.

2.22 "Tokens" means the serialized proof of purchase of a Service Plan that is used by CPI in connection with enabling Services or provisioning Charging Stations.

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

3. AVAILABLE CHARGEPOINT SERVICES & SERVICE PLANS. A description of the various ChargePoint Services and Service Plans currently available for subscription is located on the CPI website. CPI may make other ChargePoint Services or Service Plans available from time to time, and may amend the features or benefits offered with respect to any ChargePoint Service or Service Plan at any time and from time to time. Subscription Fees are based on Subscriber's choice of Service Plan and not on actual usage of the Subscription. Subscriber's selection of ChargePoint Services is set forth in Exhibit 4 of this Agreement, which is incorporated into this Agreement by this reference.

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. CPI 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 and for any impact on the security of Subscriber's cardholder data environment.

4.1.1 DISPOSITION OF COLLECTED FUNDS. Under Enrolled House Bill 3324 (2019 Oregon Laws, chapter 503, subsection 1(1)(e)), on and after January 1, 2020, CPI need not comply with ORS 295.001 to 295.108 with respect to funds CPI collects as payment for electric vehicle charging stations.

4.1.2 Subscriber shall not utilize CPI's services to collect funds for electric vehicle charging unless Subscriber and CPI have established, by separate written agreement (or amendment to this Agreement), a procedure for turning over the funds that complies with ORS 293.265(1)(b). Subscriber will reimburse CPI for its losses and expenses incurred as a result of Subscriber's activation or use of CPI's Services to collect funds for electric vehicle charging without having established the procedure to comply with ORS 293.265(1)(b). In no event shall CPI be required to reimburse funds within twenty-four (24) hours.

4.2 LIMITATIONS ON RESPONSIBILITY. CPI shall not be responsible for, and makes no representation or warranty with respect to the following: (i) specific locations or number of Charging Stations now, or in the future, owned, operated 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; 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 this Agreement. 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 any unauthorized access to or use, by Subscriber, its officers, employees, or agents, of ChargePoint or ChargePoint Services via Subscriber's Charging Stations, ChargePoint Services accounts, or other equipment. Subscriber shall be fully liable to CPI for any unauthorized access to or use, by Subscriber, its officers, employees, or agents, of ChargePoint or ChargePoint Services via Subscriber's Charging Stations, ChargePoint Services accounts, or other equipment, to the extent that such unauthorized access or use is caused by the negligence of Subscriber, its officers, employees, or agents. 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 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 without the prior written consent of CPI, except that Subscriber may transfer the ChargePoint Services and Content to another agency or instrumentality of the State of Oregon in the case of any governmental reorganization;

(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, except as provided in Section 5.6 of this Agreement;

(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 chain letters, messages, communication, or other content that promotes pyramid schemes, 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 Services.

5.6 Notwithstanding anything to the contrary in Section 5.4 or 5.5 of this Agreement, CPI grants to Subscriber an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform, and display, as public record data, data reports and data that are sufficient for Subscriber to fully satisfy the obligations of the Oregon Department of Administrative Services to report to the Oregon Legislative Assembly all information required by ORS 276.255(6), as amended by 2018 Oregon Laws, chapter 90, section 1(6). Subscriber may disseminate, manipulate, create derivative works based on, and publish this data for governmental purposes, and may authorize others to do the same on Subscriber's behalf as required by ORS 276.255(6). Nothing in this Section 5.6 shall require CPI to provide to Subscriber data or information that constitutes PII, including "Personally Identifiable Information" as defined in ORS 319.915 and

“Personal Information” as defined in the Oregon Consumer Identity Theft Prevention Act, ORS 646A.602.

6. SUBSCRIPTION FEES AND PAYMENT TERMS.

6.1 SUBSCRIPTION FEES. Subscriber shall pay all Subscription Fees within forty-five (45) 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. Customer may not offset any amounts due to CPI hereunder against amounts due to Customer under this Agreement or any other agreement. Fees payable to CPI do not include any Taxes, and Subscriber is responsible for any and all such Taxes. 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, including ORS 293.462(4). 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 Service Plan. Subscriber shall not use any of the CPI Marks for or with any products other than Subscriber's 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 or Services have been authored by, or represent 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 obscene or misleading, defamatory, infringing, libelous, or disparaging of 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 THE EXTENT PERMITTED BY ARTICLE XI, SECTION 7 OF THE OREGON CONSTITUTION AND SUBJECT TO THE LIMITS ESTABLISHED UNDER THE OREGON TORT CLAIMS ACT (ORS 30.260 TO 30.300), 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 NEGLIGENCE, 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 JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES 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 IMPLIED WARRANTIES GRANTED IN SUCH CASES SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9. TERM 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 Service Plans.

9.2 SERVICE PLAN TERM. Each Service Plan acquired by Subscriber shall commence as follows: Each Service Plan acquired for use with a new Charging Station will commence on the earlier to occur of (i) the date of Provisioning such new Charging Station, or (ii) one year from the date the Token(s) necessary for Provisioning such new Charging Station is made available to Subscriber or its installer. Renewals of Service Plans will commence on the date of the expiration of the Subscription being renewed. Each Subscriber Service Plan shall continue for the applicable duration thereof, unless this Agreement is terminated earlier in accordance with its terms.

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 thirty (30) 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, 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.

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 Service 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. In no event shall any termination relieve Subscriber of any unpaid Subscription Fees due CPI for the Service Plan term in which the termination occurs or any prior Service 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 the extent permitted by Article XI, section 7 of the Oregon Constitution and subject to the limits established under the Oregon Tort Claims Act (ORS 30.260 to 30.300), except to the extent caused by the negligence, gross negligence, or willful misconduct of CPI, its officers, directors, agents, affiliates, distribution partners, licensors or suppliers, 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 its own defense of any matter subject to indemnification by Subscriber.

10.1 OREGON ATTORNEY GENERAL. Notwithstanding anything to the contrary in Section 10, CPI may not defend or purport to serve, through its attorneys or otherwise, as a legal representative of the State of Oregon, Subscriber, or their officers, employees or agents. Only legal counsel that has accepted appointment as a special assistant attorney general under ORS chapter 180 may undertake such action or representation.

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 DISPUTE RESOLUTION. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between CPI and Subscriber from or

relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of the State of Oregon for Marion County. It is provided, however, that if a Claim must, as mandated by federal law, be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CPI HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SUCH COURTS, WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein may be construed as a waiver of the State of Oregon's or Subscriber's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

If the Parties to this Agreement become involved in a dispute regarding any of the terms, conditions, performance, or any obligations under this Agreement, the Parties shall submit to mediation prior to the commencement of litigation to enforce this Agreement. The mediator shall be an individual mutually acceptable to the Parties, but in the absence of agreement, each Party shall select a temporary mediator, and the temporary mediators shall jointly select the permanent mediator. Each Party agrees to pay its own costs for the time and effort involved in mediation and split equally the cost of the temporary mediators, if any, and the mediator. Both Parties agree to exercise best efforts and act in good faith to resolve all disputes in mediation. The Parties shall mutually agree on the schedule and time allowed for mediation. The Parties shall comply with any statutes or administrative rules that govern the confidentiality of mediation.

11.5 NOTICE TO CALIFORNIA CUSTOMERS.

(a) Reserved.

11.6 NOTICE TO OREGON CUSTOMERS

(a) Oregon's Clean Fuel Program ("OCFP") was created with the purpose of reducing greenhouse gas emissions in the transportation sector.

(b) The fueling of electric vehicles, and the operation of the ChargePoint Network, contribute to reducing Oregon's greenhouse gas emissions and are eligible for OCFP credits, which are issued by the Oregon Department of Environmental Quality. By reporting the amount of electric vehicle fueling, ChargePoint is able to help Oregon track the growing use of electric vehicles in the state, for which Subscriber will receive OCFP credits.

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. In such event, however, the Parties shall negotiate in good faith to agree on replacement language for the offending term or provision that will be consistent with the purposes of this Agreement.

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. Unless in the event of CPI's assignment or transfer of the majority of its stock or all or substantially all of its assets as part of a merger, acquisition, or asset sale, CPI may not assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of Subscriber (not to be unreasonably withheld). It is provided, however, that Subscriber shall have the right to terminate this Agreement and any underlying service subscriptions at Subscriber's discretion, which Subscriber may exercise within ninety (90) days of Subscriber's receipt of notice of CPI's assignment or transfer of the majority of its stock or all or substantially all of its assets as part of a merger, acquisition, or asset sale.

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 PAY EQUITY ACT. CPI must comply with ORS 652.220 as amended and shall not unlawfully discriminate against any of CPI's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. CPI's compliance with this section constitutes a material element of this Agreement and a failure to comply constitutes a breach that entitles Subscriber to terminate this Agreement for cause.

11.13 NO PROHIBITION OF DISCUSSING WAGES. CPI may not prohibit any of CPI's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. CPI may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

11.14 NONDISCRIMINATION IN EMPLOYMENT. CPI certifies, in accordance with ORS 279A.112, that CPI has in place a written policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class, as defined by ORS 279A.112. As a material term of this Agreement, CPI must maintain, throughout the duration of this Agreement, a policy and practice that complies with ORS 279A.112. CPI's policy and practice must include giving employees a written notice of a policy that both prohibits, and prescribes disciplinary measures for, conduct that constitutes sexual harassment, sexual assault, or unlawful discrimination. Subscriber reserves the right to request a copy of CPI's policy.

11.15 TAX COMPLIANCE. CPI certifies that (to the best of CPI's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the Effective Date, CPI faithfully has complied with:

11.15.1 All tax laws of this State, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

11.15.2 Any tax provisions imposed by a political subdivision of this State that applied to CPI, to CPI's property, operations, receipts, or income, or to CPI's performance of or compensation for any work performed by CPI;

11.15.3 Any tax provisions imposed by a political subdivision of this State that applied to CPI, or to goods, services, or property, whether tangible or intangible, provided by CPI; and

11.15.4 Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

11.15.5 CPI shall, and as modified by Section 4 of this Agreement, throughout the duration of this Agreement, comply with all tax laws of this State and all applicable tax laws of any political subdivision of this State. For the purposes of this section, "tax laws" includes the tax laws described in subsections 11.15.1 through 11.15.4. Any violation of this subsection constitutes a material breach of this Agreement.

11.16 CPI certifies that CPI has no undisclosed liquidated and delinquent debt owed to the State of Oregon or to any department or agency of the State.

11.17 OREGON CONSUMER IDENTITY THEFT PROTECTION ACT.

11.17.1 In the performance of this Agreement, CPI may have access, possession, custody or control of "Personal Information" as that term is used in ORS 646A.602(11). If CPI receives access, possession, custody or control of "Personal Information," CPI must maintain appropriate safeguards for the security of that Personal Information as required by the Oregon Consumer Identity Theft Protection Act, ORS 646A.600 to 646A.628, and shall do so in the performance of this Agreement. Accordingly, CPI represents and warrants that it will maintain, operate and enforce, prior to the receipt of, and during the period in which CPI has possession of or access to any Personal Information, an active and effective written information security program that at minimum complies with the requirements of the Oregon Consumer Identity Theft Protection Act to preserve the security and confidentiality of all Personal Information that is contained in any document, record, compilation of information or other item to which CPI receives access, possession, custody or control.

11.17.2 In addition to and without limiting the generality of subsection 11.17.1, CPI shall not breach or permit the breach of the security of any Personal Information (as "Personal Information" is defined in ORS 646A.602(11)) that is contained in any document, record, compilation of information, or other item to which CPI receives access, possession, custody, or control under this Agreement. CPI shall not disclose, or otherwise permit access of any nature, to any unauthorized person, of any Personal Information that is contained in any document, record, compilation of information, or other item to which CPI receives access, possession, custody, or control under this Agreement. CPI shall not use, distribute, or dispose of any Personal Information in any manner other than expressly permitted by this Agreement, allowed pursuant to its privacy policy or other contract, required by applicable law, or required by an order of a tribunal having competent jurisdiction.

11.17.3 Requirement that CPI Report Security Breaches. With respect to Personal Information to which CPI receives access, possession, custody, or control in the performance of this Agreement, CPI shall promptly report to Subscriber: (i) the disclosure or compromise of any unencrypted Personal Information; and (ii) the disclosure or compromise of any encrypted Personal Information where the encryption key is also compromised, to the extent that there is

any breach of security, disclosure, theft, loss, or other unauthorized access or use of any document, record, compilation of information, or other item that contains Personal Information.

11.17.4 Subsections 11.17.1 through 11.17.3 of this Agreement apply equally to any Personal Information accessed, possessed, or in the custody or control of CPI's employees, officers, or agents, including any subcontractors.

11.18 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 Service Plan, the number of Charging Stations for which such Service Plan is ordered, the term of such Service 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.

11.19 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.

11.20 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.

11.21 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.

11.22 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 and such translation, the English language version will prevail.

Subscriber:

Name: _____

ChargePoint, Inc.

Name: Jonathan Kaplan

DocuSigned by:
Jonathan Kaplan

EABAE9E531064DE...

Title: _____
Date: _____
Address: _____

Title: General Counsel
Date: 8/16/2019
Address: _____
254 E. Hacienda Ave
Campbell, CA 95008

Department of Administrative Services

Signature: 

Name: Lori Nordlien Date: 8/16/19

Department of Justice

Approved by William Nessley per email dated 8/15/19

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 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 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 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 (\$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 Taxes incurred in connection with Session Fees; 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 Service Plan subscribers.

2. API USE. Subscriber may use the APIs as and to the extent permitted by Subscriber’s Service 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 Service Plan, and Subscriber’s particular Service 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) except as provided in Section 5.6 of the Agreement, 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 Services;

(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 a 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 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 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 the extent permitted by Article XI, section 7 of the Oregon Constitution and subject to the limits established under the Oregon Tort Claims Act, (ORS 30.260 to 30.300), except to the extent caused by the negligence, gross negligence, or willful misconduct of CPI, 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.