

AGR22-931a

**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 THE APPLICABLE CHARGEPOINT ENTITY OR ENTITIES (“CPI”) WHICH CAN BE FOUND IN SECTION 11.4 BELOW. 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 date that Subscriber executes this Agreement, or (b) 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. CPI understands that Subscriber is subject to certain public information laws (NMSA 1978, Section 14-2-1 et seq.) which may require release of non-PII information to the public. 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) intentionally 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, Canada, 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 (or, if Subscriber is located in Canada, Canadian 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.** 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 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 and with prior written notice from Subscriber, this Agreement will renew 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.**

(a) 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.

(b) **Funding.** This Agreement shall terminate without further action by Subscriber on the first day of any Subscriber fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. Subscriber shall make reasonable efforts to give CPI at least ninety (90) days advance written notice that funds have not been and are not expected to be appropriated for that purpose.

**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. INTENTIONALLY OMITTED.**

## **11. GENERAL.**

**11.1 AMENDMENT OR MODIFICATION.** CPI reserves the right to modify this Agreement from time to time. CPI will provide at least 30 days notice of each such modification to Subscriber. If the changes will have a material adverse change on Subscriber, then CPI, in its sole discretion, will either allow Subscriber to terminate this Agreement without penalty by providing at least thirty (30) day written notice to CPI, or CPI will apply the prior Agreement before the material adverse change to Subscriber for the remainder of the current Term. 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 GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION.** 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.

**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](mailto: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, to the following:

Department of Public Utilities  
Incorporated County of Los Alamos  
1000 Central Avenue, Suite 140  
Los Alamos, New Mexico 87544

With copy to:

County Attorney's Office  
Incorporated County of Los Alamos  
1000 Central Avenue, Suite 340  
Los Alamos, NM 87544

or (b) if by Subscriber, via electronic mail to [mssa@chargepoint.com](mailto: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 not assign any of its rights or obligations herein without the prior written consent of Subscriber. Notwithstanding the foregoing, CPI may assign this Agreement or any of its rights or interests hereunder, or delegate any of its obligations hereunder, to (i) any entity that directly or indirectly controls, is controlled by, or is under common control with CPI, where "control" means the ownership of, or the power to vote, at least twenty percent (20%) of the voting stock, shares or ownership interests of such entity, (ii) CPI's successor pursuant to a merger, reorganization, consolidation or sale, or (iii) an entity that acquires all or substantially all of that portion of CPI's assets or business for which Subscriber's Charging Services were acquired or are being used.

**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. 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.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the parties hereto have duly executed this Master Services and Subscription Agreement as of the Effective Date.

**ATTEST**

**INCORPORATED COUNTY OF LOS ALAMOS**

Naomi D. Maestas  
Naomi D. Maestas  
County Clerk



BY: Philo S. Shelton, III 5/9/2022  
Philo S. Shelton, III P.E. Date  
Utilities Manager

**Approved as to form:**

Kevin Powers for  
J. ALVIN LEAPHART  
COUNTY ATTORNEY

**CHARGEPOINT, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Deputy Chief Purchasing Officer

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

Address:  
254 E. Hacienda Ave  
Campbell, CA 95008

**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.

**2.3 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.

AGR21-931b



ChargePoint Assure ("Assure") is a full service and support program designed specifically for your electric vehicle charging station ("Charging Station") purchased from the ChargePoint entity as defined in Section 15 below ("ChargePoint") ("ChargePoint") or its representatives. With your Assure coverage, ChargePoint O&M Partners (defined below) will provide parts, labor, and other services indicated in these Assure Terms and Conditions of Service ("Agreement"). Published specifications for the Charging Stations are available via your ChargePoint account or upon request of ChargePoint or its representatives.

1. **WHAT IS COVERED:** With Assure, ChargePoint agrees to do each of the following, for so long as you purchase and maintain an Assure subscription. For further information please visit <https://chargepoint.com/products/service>.

a. **Parts:**

- Ensure all parts are provided, as necessary, to correct any defect in the materials or workmanship of a Charging Station in a prompt and professional matter.
- Each Charging Station shall be corrected so that the Charging Station functions in line with that Charging Station's published specifications. For avoidance of doubt, such correction shall be limited to the Charging Station itself and not any issue related to installation or electrical infrastructure.

b. **Service and Labor:**

- Except as otherwise provided, ensure that all labor is performed, on-site if necessary, to correct any defect in the materials or workmanship of the Charging Station in a prompt and professional manner.
- Ensure that labor is performed for repairs caused by vandalism or auto accidents that affect the Charging Stations functionality. For avoidance of doubt, labor is only covered for repairs required to enable the Charging Station to function. Parts are not covered for repairs required due to vandalism or auto accidents.
- Provide remote, automated monitoring of your Charging Station and perform triage with respect to any Charging Station that may be defective.
- Coordinate all repairs necessary to have your Charging Station back up and running.
- Ensure that you are provided a response no later than one business day from the date ChargePoint becomes aware of an issue.
- Ensure onsite repairs begin within one business day from the delivery of any parts required to fix your Charging Station.
- Provide a standard monthly summary and quarterly detailed station usage and performance metrics.
- Provide administration of your cloud service at no additional cost upon your request to ChargePoint Support. For purposes of Assure, "administration" means that ChargePoint Support will act on your behalf to update or otherwise modify configuration in your cloud services, including but not limited to pricing, access controls, and reporting.

c. **Charging Station Uptime Commitment:**

Revised 5.25.2021

ChargePoint, Inc. | 150 West Haverhill Ave. | Campbell, CA 95008-0001 USA  
415.754.1234 | Fax: 415.754.3991 | [info@chargepoint.com](mailto:info@chargepoint.com) | [www.chargepoint.com](http://www.chargepoint.com)

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**AGR21-931b**



- A 98% annual station uptime guarantee, meaning that the Charging Stations can dispense energy, with a prorated refund of up to the annual station Assure maintenance fee for outages caused by station hardware failures in excess of 2% annually.
2. **WHAT IS NOT COVERED:** ChargePoint undertakes no responsibility with respect to repairing, replacing, monitoring or servicing anything other than your Charging Stations. This means, for example, that ChargePoint is not responsible for the physical mounting and electrical wiring of your Charging Stations or for the performance of any cellular or Wi-Fi repeaters or other devices installed in connection with your Charging Stations. Additionally, Assure is not available for testing Charging Stations on non-commercially available vehicles. Assure labor is provided on an as available basis, per the requirements of Section 1 above.
  3. **FURTHER COSTS:** If ChargePoint finds that the unit was not functioning, and is not otherwise covered by Assure subscription, than ChargePoint has the right to bill back for all costs incurred related to the warranty service (“Bill Back Costs”). For avoidance of doubt Bill Back Costs can include costs for investigation, equipment rental, engineering, travel and other reasonable expenses that ChargePoint is required to spend to address a claim under Assure.
  4. **CUSTOMER RESPONSIBILITIES:** In order to perform its obligations under Assure, ChargePoint needs your cooperation. Specifically, you agree to:
    - a. Provide reasonable access to ChargePoint or its designee as necessary for the performance of ChargePoint’s obligations.
    - b. Permit ChargePoint to access the Charging Stations remotely by maintaining a separately purchased Cloud Services subscription necessary for remote access.
    - c. Maintain your premises in accordance with all applicable laws, rules and regulations.
    - d. Keep the areas in which Charging Stations are located in a clean, safe and orderly condition, to at least the same standard as you customarily use to maintain the remainder of your premises.
    - e. Promptly notify ChargePoint of any suspected defect with a Charging Station. ChargePoint must have reasonable access to the Charging Station, including access to your requisite personnel, to address the service required.
  5. **WHO IS ELIGIBLE FOR CHARGEPOINT ASSURE?:** ChargePoint Assure is only available to purchasers of Charging Stations, manufactured by ChargePoint, who purchase ChargePoint Assure and either: 1) use a ChargePoint Operations and Maintenance Partner (“O&M Partner”) to install their Charging Stations or 2) successfully complete a site validation or commissioning as described below.
    - a. **ChargePoint O&M Partner Installation.** For information on how to contact a ChargePoint O&M Partner, please contact your ChargePoint sales representative or authorized ChargePoint reseller for more details.
    - b. **Site Validation or Commissioning:** If you do not use an O&M Partner to install your Charging Station, you still will be eligible for ChargePoint Assure after your installation has been validated by ChargePoint or an authorized third party (“Site Validation”). ChargePoint may require you to purchase its full commissioning service (“Commissioning”) in lieu of Site Validation depending on what Charging Station product is you purchased. The purpose of Site Validation or Commissioning is to ensure that your Charging Stations were installed correctly, in accordance with ChargePoint’s recommended specifications and operational requirements. Site Validations or Commissioning require the payment of ChargePoint’s then current fee, charged on a “per station” basis.
  6. **EXCLUSIONS FROM COVERAGE:** ChargePoint’s obligations under ChargePoint Assure shall not apply to defects or service repairs resulting from the following:
    - a. Cosmetic damage such as scratches and dents.
    - b. Normal aging or fading of colors due to exposure to the elements.
    - c. Except as provided in 1(j) above, abuse, vandalism, damage or other problems caused by accidents or

Revised 5.25.2021

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negligence (including but not limited to physical damage from being struck by a vehicle), or use of the Charging Station in a way other than as specified in the applicable Charge Point documentation.

- d. Installation, alteration, modification or relocation of the Charging Station that was not approved in writing by ChargePoint, performed by an O&M Partner or validated in the manner described above.
- e. Use of the Charging Station with software, interfacing, parts or supplies not supplied by ChargePoint.
- f. Vehicle to Charging Station interoperability or communication issues.
- g. Damage resulting from extreme power surge, extreme electromagnetic field or any other acts of nature.
- h. Force majeure or unforeseeable circumstances beyond ChargePoint's reasonable control that prevent ChargePoint from performing its obligations under Assure.

In addition, ChargePoint's obligations under ChargePoint Assure shall not apply to any Charging Station that was not installed by a ChargePoint O&M Partner or a ChargePoint certified installer pursuant to the provisions of Section 5 of this Agreement.

- 7. **CONTACT INFORMATION:** If at any time turning the term of your coverage of ChargePoint Assure you believe you have defective Charging Equipment, contact Customer Service at the Customer Service number provided to you by your Account Executive, and follow any mutually agreed upon issue reporting procedures.
- 8. **SERVICE TERM:** Each Assure subscription that you purchase for a Charging Station will commence ninety (90) days from the invoice date and will last for the subscription length selected in an applicable order (the "Service Term"). For greater certainty, to the extent an applicable Charging Station is delivered, installed, and activated before the Service Term commences as described above, your Charging Stations will nevertheless have coverage under Assure and the Service Term will start at the expiration of the ninety (90) day period referenced above.
- 9. **RENEWAL:** Upon expiration of your initial Service Term, your Assure coverage will renew upon mutual agreement of the parties for successive one-year terms at the list price of the original Service Term, subject to increases (not to exceed 5% annually) and your right to terminate below (each a "Renewal Term"). Should the Renewal Term be cancelled and subsequently requested to be reinstated, reinstatement will be subject to the payment of fees for any lapse period, plus reasonable reinstatement fees. If, however, you wish to terminate your Assure coverage under a Renewal Term, you may do so by providing thirty (30) days' written notice of cancellation and ChargePoint will issue a pro-rata refund of any funds paid from the effective date of cancellation to the end of the applicable Renewal Term. Renewal Terms will commence on the date of the expiration of the original Service Term.
- 10. **PAYMENTS:** ChargePoint will send you an invoice for your Assure coverage on or after the date the applicable Charging Stations are shipped to you. Payment is due within thirty (30) days of the invoice date. If you have purchased extended Assure coverage and have chosen the annual payment option, ChargePoint will invoice each annual payment on the anniversary date of your Assure coverage. All payments shall be made in U.S. Dollars (or if you are located in Canada, Canadian dollars) and may be made by check, wire transfer, ACH payment system or other means approved by ChargePoint. You may not offset any amounts due to ChargePoint hereunder against amounts due to you under this Agreement or any other agreement. Fees payable to ChargePoint do not include any Taxes, and you are responsible for any and all such Taxes. All payment obligations under this Agreement are non-cancelable and non-refundable. 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. You will reimburse ChargePoint for any fees as may be authorized by a court of competent jurisdiction. If any amount owing by you under this Agreement is more than thirty (30) days overdue, ChargePoint may, without otherwise limiting ChargePoint's rights or remedies, (a) terminate this Agreement and (b) refuse to provide Assure coverage until ChargePoint has received payment in full.
- 11. **TERMINATION:** You may terminate your Assure coverage without prejudice to any other remedy at law or equity: (i) if ChargePoint is in material breach of any of its obligations under Assure and has not cured such breach within thirty (30) days of the date of its receipt of written notice thereof or (ii) upon providing thirty (30) days prior written notice.

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Upon termination for cause pursuant to this Section 11(i), ChargePoint will refund a pro-rata portion of the fees you paid for Assure. Upon any termination for any other reason, you will not be entitled to any refund of any fees paid.

- 12. **TRANSFERS:** Your Assure coverage applies only to the Charging Stations and installation site for which it was purchased. Subject to Section 20 of this Agreement, if you sell or otherwise transfer your Charging Stations with an active Assure subscription to a third-party, and those Charging Stations are moved or otherwise transferred away from the original installation site, your Assure coverage may not be transferred without ChargePoint's prior written consent.
- 13. **REPLACEMENT PARTS AND STATIONS:** Replacement parts or Charging Stations that have been replaced (collectively "Replacement Parts") that are provided by ChargePoint pursuant to your Assure coverage may be remanufactured or reconditioned parts or Charging Stations or, if the exact Charging Station is no longer manufactured by ChargePoint, a Charging Station with substantially similar functionality. Any Replacement Parts provided under your Assure coverage will become your property and all returned parts or returned Charging Stations, whether under warranty or not, will become the property of ChargePoint. Any Replacement Parts will be covered by Assure for the remainder of your Assure coverage or ninety (90) days from the date of delivery of such Replacement Parts, whichever is later.
- 14. **LIMITS ON LIABILITY:** This section limits ChargePoint's liability under Assure. Please read it carefully.
  - a. CHARGEPOINT IS NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST BUSINESS, LOST DATA, LOSS OF USE, OR COST OF COVER INCURRED BY YOU ARISING OUT OF OR RELATED TO YOUR PURCHASE OR USE OF, OR INABILITY TO USE, THE CHARGING STATION, UNDER ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, EVEN IF CHARGEPOINT KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE CUMULATIVE LIABILITY OF CHARGEPOINT FOR ALL CLAIMS WHATSOEVER RELATED TO PERFORMANCE BY CHARGEPOINT OF ITS OBLIGATIONS UNDER CHARGEPOINT ASSURE WILL NOT EXCEED THE PRICE YOU PAID FOR ASSURE. THE LIMITATIONS SET FORTH HEREIN ARE INTENDED TO LIMIT THE LIABILITY OF CHARGEPOINT AND SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.
  - b. Some states or jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

15. **GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION.** The ChargePoint entity entering into this Agreement, the address to which you should direct notices under this Agreement, the governing law, and place of jurisdiction, shall be determined according to you are domiciled:

If you are domiciled in:	The ChargePoint 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)

Revised 5.25.2021

ChargePoint, 1711 E. Bay Street, Suite 200, San Jose, CA 95131  
Tel: 415.754.3770 Fax: 415.754.3771 info@chargepoint.com www.chargepoint.com

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Canada	ChargePoint Canada, Inc., a British Columbia corporation	TBD	British Columbia and controlling Canadian federal law	Vancouver, British Columbia, Canada	ADR Institute of Canada
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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 your violation of the intellectual property rights of ChargePoint, 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 ChargePoint, 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.

- 16. **AMENDMENT OR MODIFICATION:** This Agreement may not be amended or modified except pursuant to a writing executed by each of the parties.
- 17. **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.
- 18. **FORCE MAJEURE:** ChargePoint will not be liable for failure to perform any of its obligations hereunder due to causes beyond its reasonable control and occurring without its fault or negligence, including but not limited to fire, flood, earthquake or other natural disaster (irrespective of ChargePoint'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 ChargePoint 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.
- 19. **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.
- 20. **ASSIGNMENT.** Except as otherwise provided under this Agreement, you may not assign any of your rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of ChargePoint. Notwithstanding, you may assign your rights and obligations under this Agreement upon notice to ChargePoint if you sell the property where the Charging Stations were installed, provided that any such purchasing entity assumes all rights and obligations under this Agreement; provided further that, the purchasing entity will not move or otherwise transfer the Charging Stations from original installation site. To the extent the purchasing entity desires to move or otherwise transfer the Charging Stations from the original installation site, Section 12 of this Agreement will apply. In the event of any purported assignment in breach of this Section 20, ChargePoint shall be entitled, at its sole discretion, to terminate this Agreement by providing written notice to you. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. ChargePoint may not assign its rights and obligations under this Agreement without your prior written consent, which shall not be unreasonably withheld; provided however in the event of the sale or transfer of substantially all of its assets, or a sale, merger or

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change of control ChargePoint may, upon written notice, assign any or all rights and obligations contained herein without consent.

- 21. **ENTIRE AGREEMENT.** This Agreement 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. To the extent of any conflict or inconsistency between this Agreement and any purchase order, this Agreement shall prevail.
- 22. **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.
- 23. **ENGLISH LANGUAGE AGREEMENT GOVERNS.** Where ChargePoint has provided you with a translation of the English language version of this Agreement, You agree that the translation is provided for your convenience only and that the English language version of this Agreement governs your 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.

ATTEST

Naomi D. Maestas  
 Naomi D. Maestas  
 County Clerk



INCORPORATED COUNTY OF LOS ALAMOS

By: Philo S Shelton III 5/9/2022  
 Philo S. Shelton, III P.E. Date  
 Utilities Manager

Approved as to form:

J. Alvin Leaphart  
 J. ALVIN LEAPHART  
 COUNTY ATTORNEY

ChargePoint, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Deputy Chief Purchasing Officer

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

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## TERMS AND CONDITIONS OF PURCHASE

### 1. Placement of Orders.

A. Purchase of Charging Stations. The terms of these Terms and Conditions of Purchase (“Terms”) govern the Company’s purchase of Charging Stations from the applicable ChargePoint entity as defined in section 7(G) below (“ChargePoint”). Company’s purchase of Charging Stations (including, without limitation, any purchase of an extended Assure Warranty) made by Company shall be made by binding, written purchase order specifying the number and model of Charging Station(s) desired to be purchased, requested delivery schedule (which, absent agreement between the parties, shall be a date that is no less than sixty (60) days after the date of the purchase order), any extended Assure Warranty being purchased and that Company’s purchase of Charging Stations is subject to all of the terms and conditions contained in these Terms. Any additional printed terms and conditions in Company’s purchase order conflicting with, varying or adding to the terms and conditions of these Terms, shall be of no force and effect, unless the parties hereto agree in writing, in advance, to accept such terms and conditions.

B. Acceptance of Purchase Orders. All purchase orders and modifications to purchase orders are subject to acceptance or rejection by ChargePoint in its sole discretion. No purchase order shall be binding upon ChargePoint unless and until so accepted in writing by ChargePoint. ChargePoint agrees to use commercially reasonable efforts to notify Company of its acceptance or rejection of Company’s order within ten (10) business days after receipt thereof. Any purchase order accepted by ChargePoint is referred to in these Terms as, an “Accepted Order.” Accepted Orders are non-cancelable, non-returnable and non-refundable.

C. Refusal of Purchase Orders. ChargePoint may withhold shipments to Company if Company has exceed its applicable credit limit, if any, and not provided for prepayment, is in violation of its payment obligations or otherwise is in material breach of these Terms.

D. Stations Require Subscription to SaaS Offerings. The Charging Stations are designed to work with ChargePoint’s cloud-based application services (“SaaS Offerings”). Access to SaaS Offerings requires Company to enter into a Master Services and Subscription Agreement with ChargePoint.

### 2. Delivery

A. Shipping Costs; Terms. All shipping, unless otherwise agreed to by the Parties in writing, shall be FCA ChargePoint’s warehouse. Company shall be responsible for all costs of shipping, transportation, insurance, warehousing, and other charges and costs associated with shipment of the Charging Stations to Company. All shipping dates are approximate and are based upon prompt receipt of all necessary information from Company. In no event shall ChargePoint be liable for any costs related to delay in delivery of the Charging Stations. Company’s sole remedy for any material delay in delivery of the Charging Stations shall be cancellation of the order.

B. Transfer of Title. Delivery of the Charging Stations to Company shall be completed upon delivery of the Charging Stations to Company’s freight forwarder. Risk of loss and damage to the Charging Stations shall pass to Company upon the delivery of such Charging Stations to such freight forwarder. ChargePoint shall use commercially reasonable efforts to deliver Charging Stations ordered by Company on the scheduled delivery date. All claims for non-conforming shipments must be made in writing to ChargePoint within twenty (20) days of the passing of risk of loss and damage, as described above. Any claims not made within such period shall be deemed waived and released.

C. Substitutions. ChargePoint shall have the right to make substitutions and modifications to Charging Stations and in the specifications of Charging Stations to be delivered under the terms of any applicable purchase order, provided that such substitutions or modifications will not materially affect overall Charging Station form, fit, function or safety specifications.

### 3. Invoicing and Payment

A. Invoicing. Unless otherwise agreed in writing by the Parties, ChargePoint shall issue an invoice to Company on or after the date it ships the ordered Charging Stations; provided that, ChargePoint may condition its acceptance of a purchase order on such credit and/or prepayment terms as ChargePoint, in its reasonable discretion, determines appropriate due to, among other things, Company’s prior payment history and/or the size of the order. In the case of any change to the applicable credit and/or prepayment terms, no purchase order or acceptance thereof will be effective unless and until Company has consented in writing thereto. If Company causes a delay in delivery, ChargePoint may issue its invoice at any time on or after the scheduled delivery date. If Company has purchased an extended Assure Warranty and has chosen the annual payment option, ChargePoint will invoice each annual payment on the anniversary date of the Assure Warranty.

B. Payment Terms. ChargePoint will invoice Company at time of shipment of the Charging Stations. All invoices shall be paid within thirty (30) days of Company’s receipt thereof. Fees for Cloud Services subscriptions shall be invoiced at shipment of the Charging Stations to which such Cloud Services subscriptions relate, and on each anniversary date thereof. All invoices for Cloud Services subscriptions shall be paid within thirty (30) days of Company’s receipt thereof. 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. All non-credit shipments, or shipments in excess of Company’s available credit line, if any, shall be prepaid prior to shipment.

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C. No Right of Set-Off; No Right of Return. Invoiced amounts are not subject to reduction by set-off or otherwise without the express written permission of ChargePoint. All sales are final and Company shall have no right of return, provided, that, ChargePoint shall comply with its obligations under the Warranty (as defined below).

D. Taxes, Duties, Etc. All amounts due to ChargePoint under these Terms and/or any applicable purchase order are net of any duties, any sales, use, excise, value-added, withholding, or similar tax of any kind and any and all other fees and charges of any nature (collectively, "Taxes") imposed by the United States, Canada or any foreign, state or local governmental entity, country or regional authority, or instrumentality thereof on the purchase, shipment, use or sale of the Charging Stations by or to Company, other than taxes measured by ChargePoint's income, corporate franchise, or personal property ownership. Where applicable, ChargePoint shall bill Company for the full amount of such taxes and shall include such amount as a separate line item on the invoice(s) sent to the Company; provided that, ChargePoint's failure to so bill the Company shall not relieve Company from the obligation to pay any Tax described in this Section 3.D.

E. Payment Currency. All amount payable under these Terms shall be paid in United States dollars or if Company is located in Canada, Canadian dollars. If Company is located outside of the United States, Company agrees to take all necessary actions required, including registration of these Terms and application for permission to make payments to ChargePoint hereunder, with the appropriate government authorities in the Company's jurisdiction, or such other institution or official, and to take such other measures as may be necessary to comply with any government currency controls in effect in Company's jurisdiction, as soon as reasonably practicable after execution of these Terms. Company shall remit payment to ChargePoint, at Company's option (i) via wire or ACH transfer to an account designated by ChargePoint in writing from time to time or (ii) by check, made out to ChargePoint, Inc.

F. All Orders Subject to Credit Approval. All orders are subject to credit approval by ChargePoint. The amount of credit or terms of payment may be changed or credit withdrawn by ChargePoint in its reasonable discretion without advance notice. ChargePoint may, in its discretion, withhold further manufacture, performance or shipment; require immediate cash payments for past and future shipments or performance; or require other security satisfactory to ChargePoint before further manufacture, performance or shipment is made; and may, if shipment has been made, recover the goods from the carrier pending receipt of such assurances.

G. Provisions Relating to Shipments in Lots. If these terms require or authorize delivery of goods in separate lots, shipments or milestones to be separately accepted by Company, Company may only refuse such portion of a lot, shipment or milestone that fails to comply with the requirements of these terms. Company may not refuse to receive any lot or portion thereof for failure of any other lot or portion or a lot to be delivered or to comply with these terms, unless such right of refusal is expressly provided for on the face hereof. Company shall pay for each lot in accordance with the terms hereof. Products held for Company are at Company's sole risk and expense.

H. Prices do not include Freight, Etc. Except to the extent expressly stated in these terms, ChargePoint's prices do not include any freight, storage, insurance, taxes, excises, fees, duties or other government charges related to the goods, and Company shall pay such amounts or reimburse ChargePoint for any amounts ChargePoint pays. If Company claims a tax or other exemption or direct payment permit, it shall provide ChargePoint with a valid exemption certificate or permit and indemnify, defend and hold ChargePoint harmless from any taxes, costs and penalties arising out of same. ChargePoint's prices include the costs of its standard domestic packing, only. Any deviation from this standard packing (domestic or export), including U.S. Government sealed packing, shall result in extra charges. To determine such extra charges, Company should consult with ChargePoint's sales offices. Any and all increases, changes, adjustments or surcharges (including, without limitation, fuel surcharges) which may be in connection with the freight charges, rates or classification included as part of these terms, shall be for Company's account.

I. Disputes. In the event Company disputes any portion or all of an invoice, it shall notify ChargePoint in writing of the amount in dispute and the reason for its disagreement within twenty-one (21) days of receipt of the invoice. The undisputed portion shall be paid when due, and finance charges on any unpaid portion shall accrue, from the date due until the date of payment, to the extent that such amounts are finally determined to be payable to ChargePoint.

J. Remedies upon Payment Default. Upon Company's default of these terms, ChargePoint may, in addition to any other rights or remedies it may have at law or otherwise, subject to any cure rights of Company, declare the entire balance of Company's account immediately due and payable or foreclose any security interest in the goods delivered. If any unpaid balance is referred for collection, Company agrees to pay ChargePoint, to the extent permitted by law, reasonable attorneys' fees in addition to all damages otherwise available, whether or not litigation is commenced or prosecuted to final judgment, play any court costs or expenses incurred by ChargePoint, and any finance charges accrued on any unpaid balance owed by Company.

K. Suspended Shipments. ChargePoint reserves the right to suspend further shipments of goods if Company is over thirty (30) days late in payment of an undisputed invoice. ChargePoint reserves the right to terminate the order if Company is over sixty (60) days late in payment of an undisputed invoice

**4. Installation**

Company shall be responsible for arranging for the installation and provisioning of the Charging Stations and for the costs thereof. At Company's request, ChargePoint may provide the names and contact information of one or more installers of Charging Stations; provided

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that, in providing such information ChargePoint makes no representation or warranty of any kind, nor does it undertake any liability, with respect to or regarding the quality of any installation or other services performed by any such installer. EXCEPT AS SPECIFICALLY AGREED TO IN WRITING, CHARGEPOINT IS NOT RESPONSIBLE FOR AND WILL NOT BE LIABLE FOR, THE QUALITY OF ANY INSTALLATION SERVICES OR ANY CLAIM IN ANY WAY RELATING TO OR RESULTING FROM SUCH SERVICES.

**5. Warranties/Limitation of Liability**

A. Warranty. The Charging Station is covered by the terms of ChargePoint’s standard parts only product Warranty (the “Warranty”), which will expire on one year from the date of installation. All applicable warranties with respect to the Charging Station are set forth in the Warranty, and are hereby incorporated by reference into these Terms.

B. Post-Warranty Maintenance. Company acknowledges and agrees that in order to obtain warranty and/or other maintenance services for the Charging Stations after expiration of the Warranty, Company must purchase extended warranties and/or maintenance agreements directly from ChargePoint.

C. Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 5, CHARGEPOINT MAKES NO WARRANTY WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. CHARGEPOINT EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS BY THE CHARGING STATIONS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CHARGEPOINT DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF CHARGING STATIONS.

D. Limitation of Liability.

i. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS, EXCEPT FOR A PARTY’S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL CHARGEPOINT BE LIABLE TO COMPANY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THESE TERMS OR THE TRANSACTIONS CONTEMPLATED HEREUNDER, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY OR ITS AGENTS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ii. COMPANY’S SOLE REMEDY FOR ANY BREACH BY CHARGEPOINT OF ITS OBLIGATIONS OR WARRANTIES UNDER THESE TERMS SHALL BE LIMITED TO, AT CHARGEPOINT’S OPTION, REPAIR OR REPLACEMENT OF THOSE CHARGING STATIONS TO WHICH SUCH BREACH IS APPLICABLE OR REFUND BY CHARGEPOINT OF ALL OR A PART OF THE PURCHASE PRICE OF THE NON-CONFORMING CHARGING STATIONS.

E. Warranty Exclusions. The Warranty set forth in these Terms is subject to certain exclusions as more fully set forth in the Warranty. COMPANY HAS BEEN INFORMED AND UNDERSTANDS THAT, IN THE EVENT ANY SUCH EXCLUSION BECOMES APPLICABLE, ALL REPRESENTATIONS AND WARRANTIES CONTAINED IN THESE TERMS SHALL IMMEDIATELY BECOME NULL AND VOID.

F. Exclusive Remedies. THE REMEDIES CONTAINED IN SECTION 5 ARE COMPANY’S SOLE AND EXCLUSIVE REMEDIES AND ARE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES COMPANY MAY HAVE AGAINST CHARGEPOINT WITH RESPECT TO NONCONFORMANCE OF THE CHARGING STATIONS.

**6. Intellectual Property**

A. Restrictions on Use Company shall not: (i) create derivative works based on the Charging Stations, (ii) copy, frame or mirror any part or content of the Charging Stations, (iii) reverse engineer any Charging Station, or (iv) access the Charging Stations 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 the Charging Stations.

B. Ownership of Intellectual Property All right, title and interest in and to any intellectual property related in any way to the Charging Stations is, and shall remain, the exclusive property of ChargePoint. For these purposes, the term “intellectual property” shall mean, all of a party’s patents, patent applications, patent rights, copyrights, moral rights, algorithms, devices, application programming interfaces, databases, data collections, diagrams, inventions, methods and processes (whether or not patentable), know-how, trade secrets, trademarks, service marks and other brand identifiers, network configurations and architectures, proprietary information, protocols, schematics, specifications, software (in any form, including source code and executable code), techniques, interfaces, URLs, web sites, works of authorship, and all other forms of technology, in each case whether or not registered with a governmental entity or embodied in any tangible form and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world in any way arising prior to or during the term of these Terms.

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7. **General**

A. **Attorneys' Fees.** If any action at law or in equity is necessary to enforce the terms of these Terms, the prevailing party may recover costs as allowed by law.

B. **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account strikes, shortages, riots, insurrection, fires, flood, storm, explosion, acts of God, war, governmental action, labor conditions, earthquakes, or any other cause which is beyond the reasonable control of such party.

C. **Waiver.** The failure of either party to require performance by the other party of any provision hereof shall not affect such party's full right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

D. **Severability.** In the event that any provision of these Terms shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render these Terms unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted as to best accomplish the objectives of such provisions within the limits of applicable law or applicable court decisions.

E. **Assignment.** The rights and liabilities of the parties hereto shall bind and inure to the benefit of their successors, executors or administrators, provided, however, that neither ChargePoint nor Company may assign or delegate these Terms or any of its licenses, rights or duties under these Terms, whether by operation of law or otherwise, without the prior written consent of the other party in its reasonable discretion; provided, however, that Company and ChargePoint shall each be entitled to assign these Terms to an affiliate or to its successor in interest by way of merger, acquisition of substantially all of the assets of assignor or any similar event (collectively, "Acquisition Transactions"); and provided further, however, that notwithstanding any Acquisition Transaction, Company shall not assign these Terms to any competitor of ChargePoint without ChargePoint's prior written consent, in its sole discretion. Any attempted assignment in violation of this provision shall be void.

F. **Notices.** Any notice, request, demand or other communication by the terms hereof required or permitted to be given by one part to the other shall be given in writing by email with confirmation of receipt, certified or registered mail, return receipt requested, fax or courier addressed to such other party or delivered to the address for each party set forth below their respective signatures, or at such other fax, email address or office address as may be given from time to time by either of the parties.

G. **Governing Law, Jurisdiction and Dispute Resolution.** The ChargePoint entity entering into this Agreement, the address to which Company should direct notices under this Agreement, the governing law, and place of jurisdiction, shall be determined according to where Company is domiciled:

<b>If Company is domiciled in:</b>	<b>The ChargePoint Entity entering into this Agreement is:</b>	<b>Notices should be addressed to:</b>	<b>Governing law is:</b>	<b>Place of jurisdiction:</b>	<b>Forum:</b>
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	TBD	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.

AGR21-931c

Except with respect to any matter relating to Company's violation of the intellectual property rights of CHARGEPOINT, 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 CHARGEPOINT, 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 recover costs as allowed by law.

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

H. Entire Agreement. These Terms and the attachments hereto constitute the entire agreement between the parties regarding its subject matter. It supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. These Terms shall not be modified unless done so in a writing signed by an authorized representative of each party.

I. 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.

**ATTEST**

*Naomi D. Maestas*

Naomi D. Maestas  
County Clerk



**INCORPORATED COUNTY OF LOS ALAMOS**

By: Philo S Shelton III 5/9/2022  
Philo S. Shelton, III P.E. Date  
Utilities Manager

**Approved as to form:**

*Kevin Powers for*

J. ALVIN LEAPHART  
COUNTY ATTORNEY

**ChargePoint, Inc.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Deputy Chief Purchasing Officer

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



# Quotation

Driving a Better Way™  
chargepoint.com

**Sales Representative:** Carlos San Miguel  
**E-Mail:** carlos.sanmiguel@chargepoint.com  
**Telephone:**

**Quote Number:** Q-188573-3  
**Date:** 3/8/2022  
**Expires On:** 4/29/2022

**Primary Contact:**

**Bill To Address**

**Ship To Address**

Rexel Denver CO  
11175 East 55th Avenue, Suite 100  
Denver Colorado 80239  
United States

Los Alamos County Government Recycling Informa  
1000 Central Ave  
Los Alamos New Mexico 87544  
United States

Product Name	Product Description	Qty	List Price	Disc%	Unit Price	Total Price
CPE250C-625-CCS1-200A-CHD	ChargePoint Express 250 Station (62.5 kW) - includes Express 250 Station, 2x Power Modules, 1x CCS1 200A cable, 1x CHAdeMO cable, North America Modem/SIM, cUL and UL listed, requires CPE250-CMT-IMPERIAL in US, CPE250-CMT-METRIC in Canada. CPE250-CMT-IMPERIAL/METRIC not included.	2	USD 44,065	12	USD 38,760	USD 77,520
CPE250-TOOLKIT-F	CPE250 Tool Kit	1	USD 0	0	USD 0	USD 0
DC-UNIVERSAL-CMT-METRIC	Required metal bracket to align conduits and mounting bolts for DC power delivery products when cable entrance is from below. This bracket is to be installed into the foundation before the concrete pad is poured. Metric Units. Required for CPE250 and PDD series.	1	USD 0	0	USD 0	USD 0





Product Name	Product Description	Qty	List Price	Disc%	Unit Price	Total Price
CPE250-ASSURE-5	5 prepaid years of ChargePoint Assure for CPE250 station. Includes Parts and Labor Warranty, Remote Technical Support, On-Site Repairs when needed, Unlimited Configuration Changes, and Reporting.	2	USD 16,275	5	USD 15,500	USD 31,000
CPE250-COMMISSIONING	This service includes on-site validation of electrical capacity, transformers, panels, breakers, wiring, cellular coverage so that the station meets all ChargePoint and local code requirements. In addition to verifying and testing the installation, Commissioning also ensures the station is connected to the ChargePoint network, completing software updates and pairing configuration if applicable. In parallel, the ChargePoint Activations team will configure the station and apply policies according to the customer's specifications. A final Commissioning Report will be provided to the customer. Note that if Commissioning cannot be performed due to site or installation deficiencies for which ChargePoint is not responsible, the customer will incur a rescheduling fee to cover redeployment costs. Priced per Express CPE250 station.	2	USD 900	100	USD 0	USD 0



Product Name	Product Description	Qty	List Price	Disc%	Unit Price	Total Price
CPCLD-ENTERPRISE-DC-5	Prepaid Enterprise Cloud Plan subscription with advanced station management features such as: Station Activation, Custom Video uploads, and Automatic Software Updates, driver and fleet management features including: Access Control and Pricing & Automatic Payment Collection, as well as advanced energy and power management features which include: Time of Use Power Sharing and Energy Management APIs. Real-time dashboards and reports provided for applicable features including 15 min meter data readings and associated advanced energy reports.	2	USD 4,799	0	USD 4,799	USD 9,598
CSUPPORT-ACTIVE	Initial Station Activation & Configuration Service includes activation of cloud services and configuration of radio groups, custom groups, connections, access control, visibility control, pricing, reports and alerts. One time initial service per station.	2	USD 349	100	USD 0	USD 0

**Quote Total:** USD 118,118.00  
**Estimated Tax:** USD 8,536.02  
**Shipping Fee:** USD 890.25  
**Grand Total:** USD 127,544.27

**Quote Acceptance**

- + Each Assure and Cloud Services subscription that you purchase for a Charging Station will commence ninety (90) days from the date the Charging Station associated with that subscription is shipped to you and will last for the subscription length selected in the applicable order.
- + All pricing is confidential between Customer and ChargePoint.
- + All prices are FCA ChargePoint warehouse(s).
- + Customer to be invoiced at time of shipment.
- + Sales tax in applicable states and shipping costs will be applied to this quote at time of invoicing.
- + All invoices are Net 30 days.
- + Credit Checks are required for new customers.
- + Pricing does not include installation or mounting services unless specifically quoted above.
- + Additional Purchase Terms and Conditions can be found at <http://www.chargepoint.com/termsandconditions>
- + Additional terms and conditions for ChargePoint Assure can be found at <http://www.chargepoint.com/legal/assure>
- + Purchaser confirms that the shipping and billing information provided in the Quotation is accurate for ChargePoint's shipping and invoicing purposes.



**By signing this quote I hereby acknowledge that I have the authority to purchase the product detailed on this document on behalf of my organization. Furthermore, I agree to the above terms and conditions and that this signed quote shall act as a purchase order.**

Signature :

Title :

Name (Print) :

Date :

Company Name :

Accounts Payable Contact Name :

Accounts Payable Contact E-Mail :

Requested Ship Date :

AGR22-931a

**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 THE APPLICABLE CHARGEPOINT ENTITY OR ENTITIES (“CPI”) WHICH CAN BE FOUND IN SECTION 11.4 BELOW. 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 date that Subscriber executes this Agreement, or (b) 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. CPI understands that Subscriber is subject to certain public information laws (NMSA 1978, Section 14-2-1 et seq.) which may require release of non-PII information to the public. 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) intentionally 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, Canada, 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 (or, if Subscriber is located in Canada, Canadian 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.** 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 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 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 and with prior written notice from Subscriber, this Agreement will renew 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.**

(a) 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.

(b) **Funding.** This Agreement shall terminate without further action by Subscriber on the first day of any Subscriber fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. Subscriber shall make reasonable efforts to give CPI at least ninety (90) days advance written notice that funds have not been and are not expected to be appropriated for that purpose.

**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. INTENTIONALLY OMITTED.**

**11. GENERAL.**

**11.1 AMENDMENT OR MODIFICATION.** CPI reserves the right to modify this Agreement from time to time. CPI will provide at least 30 days notice of each such modification to Subscriber. If the changes will have a material adverse change on Subscriber, then CPI, in its sole discretion, will either allow Subscriber to terminate this Agreement without penalty by providing at least thirty (30) day written notice to CPI, or CPI will apply the prior Agreement before the material adverse change to Subscriber for the remainder of the current Term. 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 GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION.** 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:

<b>If Subscriber is domiciled in:</b>	<b>The CPI Entity entering into this Agreement is:</b>	<b>Notices should be addressed to:</b>	<b>Governing law is:</b>	<b>Place of jurisdiction:</b>	<b>Forum:</b>
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.

**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 [lcsnotification@chargepoint.com](mailto:lcsnotification@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, to the following:

Department of Public Utilities  
Incorporated County of Los Alamos  
1000 Central Avenue, Suite 140  
Los Alamos, New Mexico 87544

With copy to:

County Attorney's Office  
Incorporated County of Los Alamos  
1000 Central Avenue, Suite 340  
Los Alamos, NM 87544

or (b) if by Subscriber, via electronic mail to [mssa@chargepoint.com](mailto: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 not assign any of its rights or obligations herein without the prior written consent of Subscriber. Notwithstanding the foregoing, CPI may assign this Agreement or any of its rights or interests hereunder, or delegate any of its obligations hereunder, to (i) any entity that directly or indirectly controls, is controlled by, or is under common control with CPI, where "control" means the ownership of, or the power to vote, at least twenty percent (20%) of the voting stock, shares or ownership interests of such entity, (ii) CPI's successor pursuant to a merger, reorganization, consolidation or sale, or (iii) an entity that acquires all or substantially all of that portion of CPI's assets or business for which Subscriber's Charging Services were acquired or are being used.

**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. 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.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the parties hereto have duly executed this Master Services and Subscription Agreement as of the Effective Date.

**ATTEST**

**INCORPORATED COUNTY OF LOS ALAMOS**

Naomi D. Maestas  
Naomi D. Maestas  
County Clerk



BY: Philo S. Shelton, III 5/9/2022  
Philo S. Shelton, III P.E. Date  
Utilities Manager

**Approved as to form:**

Kevin Powers for  
J. ALVIN LEAPHART  
COUNTY ATTORNEY

**CHARGEPOINT, INC.**

DocuSigned by:  
By: Henrik Gerdes  
0273ECE89F57429...

Name: Henrik Gerdes

Title: Chief Accounting Officer, ChargePoint Inc.

Date: 5/10/2022

Address:  
254 E. Hacienda Ave  
Campbell, CA 95008

**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.

**2.3 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.

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ChargePoint Assure (“Assure”) is a full service and support program designed specifically for your electric vehicle charging station (“Charging Station”) purchased from the ChargePoint entity as defined in Section 15 below (“ChargePoint”) (“ChargePoint”) or its representatives. With your Assure coverage, ChargePoint O&M Partners (defined below) will provide parts, labor, and other services indicated in these Assure Terms and Conditions of Service (“Agreement”). Published specifications for the Charging Stations are available via your ChargePoint account or upon request of ChargePoint or its representatives.

1. **WHAT IS COVERED:** With Assure, ChargePoint agrees to do each of the following, for so long as you purchase and maintain an Assure subscription. For further information please visit <https://chargepoint.com/products/service>.

a. **Parts:**

- Ensure all parts are provided, as necessary, to correct any defect in the materials or workmanship of a Charging Station in a prompt and professional matter.
- Each Charging Station shall be corrected so that the Charging Station functions in line with that Charging Station’s published specifications. For avoidance of doubt, such correction shall be limited to the Charging Station itself and not any issue related to installation or electrical infrastructure.

b. **Service and Labor:**

- Except as otherwise provided, ensure that all labor is performed, on-site if necessary, to correct any defect in the materials or workmanship of the Charging Station in a prompt and professional manner.
- Ensure that labor is performed for repairs caused by vandalism or auto accidents that affect the Charging Stations functionality. For avoidance of doubt, labor is only covered for repairs required to enable the Charging Station to function. Parts are not covered for repairs required due to vandalism or auto accidents.
- Provide remote, automated monitoring of your Charging Station and perform triage with respect to any Charging Station that may be defective.
- Coordinate all repairs necessary to have your Charging Station back up and running.
- Ensure that you are provided a response no later than one business day from the date ChargePoint becomes aware of an issue.
- Ensure onsite repairs begin within one business day from the delivery of any parts required to fix your Charging Station.
- Provide a standard monthly summary and quarterly detailed station usage and performance metrics.
- Provide administration of your cloud service at no additional cost upon your request to ChargePoint Support. For purposes of Assure, “administration” means that ChargePoint Support will act on your behalf to update or otherwise modify configuration in your cloud services, including but not limited to pricing, access controls, and reporting.

c. **Charging Station Uptime Commitment:**

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- A 98% annual station uptime guarantee, meaning that the Charging Stations can dispense energy, with a prorated refund of up to the annual station Assure maintenance fee for outages caused by station hardware failures in excess of 2% annually.
2. **WHAT IS NOT COVERED:** ChargePoint undertakes no responsibility with respect to repairing, replacing, monitoring or servicing anything other than your Charging Stations. This means, for example, that ChargePoint is not responsible for the physical mounting and electrical wiring of your Charging Stations or for the performance of any cellular or Wi-Fi repeaters or other devices installed in connection with your Charging Stations. Additionally, Assure is not available for testing Charging Stations on non-commercially available vehicles. Assure labor is provided on an as available basis, per the requirements of Section 1 above.
  3. **FURTHER COSTS:** If ChargePoint finds that the unit was not functioning, and is not otherwise covered by Assure subscription, than ChargePoint has the right to bill back for all costs incurred related to the warranty service (“Bill Back Costs”). For avoidance of doubt Bill Back Costs can include costs for investigation, equipment rental, engineering, travel and other reasonable expenses that ChargePoint is required to spend to address a claim under Assure.
  4. **CUSTOMER RESPONSIBILITIES:** In order to perform its obligations under Assure, ChargePoint needs your cooperation. Specifically, you agree to:
    - a. Provide reasonable access to ChargePoint or its designee as necessary for the performance of ChargePoint’s obligations.
    - b. Permit ChargePoint to access the Charging Stations remotely by maintaining a separately purchased Cloud Services subscription necessary for remote access.
    - c. Maintain your premises in accordance with all applicable laws, rules and regulations.
    - d. Keep the areas in which Charging Stations are located in a clean, safe and orderly condition, to at least the same standard as you customarily use to maintain the remainder of your premises.
    - e. Promptly notify ChargePoint of any suspected defect with a Charging Station. ChargePoint must have reasonable access to the Charging Station, including access to your requisite personnel, to address the service required.
  5. **WHO IS ELIGIBLE FOR CHARGEPOINT ASSURE?:** ChargePoint Assure is only available to purchasers of Charging Stations, manufactured by ChargePoint, who purchase ChargePoint Assure and either: 1) use a ChargePoint Operations and Maintenance Partner (“O&M Partner”) to install their Charging Stations or 2) successfully complete a site validation or commissioning as described below.
    - a. **ChargePoint O&M Partner Installation.** For information on how to contact a ChargePoint O&M Partner, please contact your ChargePoint sales representative or authorized ChargePoint reseller for more details.
    - b. **Site Validation or Commissioning:** If you do not use an O&M Partner to install your Charging Station, you still will be eligible for ChargePoint Assure after your installation has been validated by ChargePoint or an authorized third party (“Site Validation”). ChargePoint may require you to purchase its full commissioning service (“Commissioning”) in lieu of Site Validation depending on what Charging Station product is you purchased. The purpose of Site Validation or Commissioning is to ensure that your Charging Stations were installed correctly, in accordance with ChargePoint’s recommended specifications and operational requirements. Site Validations or Commissioning require the payment of ChargePoint’s then current fee, charged on a “per station” basis.
  6. **EXCLUSIONS FROM COVERAGE:** ChargePoint’s obligations under ChargePoint Assure shall not apply to defects or service repairs resulting from the following:
    - a. Cosmetic damage such as scratches and dents.
    - b. Normal aging or fading of colors due to exposure to the elements.
    - c. Except as provided in 1(j) above, abuse, vandalism, damage or other problems caused by accidents or

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negligence (including but not limited to physical damage from being struck by a vehicle), or use of the Charging Station in a way other than as specified in the applicable Charge Point documentation.

- d. Installation, alteration, modification or relocation of the Charging Station that was not approved in writing by ChargePoint, performed by an O&M Partner or validated in the manner described above.
- e. Use of the Charging Station with software, interfacing, parts or supplies not supplied by ChargePoint.
- f. Vehicle to Charging Station interoperability or communication issues.
- g. Damage resulting from extreme power surge, extreme electromagnetic field or any other acts of nature.
- h. Force majeure or unforeseeable circumstances beyond ChargePoint's reasonable control that prevent ChargePoint from performing its obligations under Assure.

In addition, ChargePoint's obligations under ChargePoint Assure shall not apply to any Charging Station that was not installed by a ChargePoint O&M Partner or a ChargePoint certified installer pursuant to the provisions of Section 5 of this Agreement.

- 7. **CONTACT INFORMATION:** If at any time turning the term of your coverage of ChargePoint Assure you believe you have defective Charging Equipment, contact Customer Service at the Customer Service number provided to you by your Account Executive, and follow any mutually agreed upon issue reporting procedures.
- 8. **SERVICE TERM:** Each Assure subscription that you purchase for a Charging Station will commence ninety (90) days from the invoice date and will last for the subscription length selected in an applicable order (the "Service Term"). For greater certainty, to the extent an applicable Charging Station is delivered, installed, and activated before the Service Term commences as described above, your Charging Stations will nevertheless have coverage under Assure and the Service Term will start at the expiration of the ninety (90) day period referenced above.
- 9. **RENEWAL:** Upon expiration of your initial Service Term, your Assure coverage will renew upon mutual agreement of the parties for successive one-year terms at the list price of the original Service Term, subject to increases (not to exceed 5% annually) and your right to terminate below (each a "Renewal Term"). Should the Renewal Term be cancelled and subsequently requested to be reinstated, reinstatement will be subject to the payment of fees for any lapse period, plus reasonable reinstatement fees. If, however, you wish to terminate your Assure coverage under a Renewal Term, you may do so by providing thirty (30) days' written notice of cancellation and ChargePoint will issue a pro-rata refund of any funds paid from the effective date of cancellation to the end of the applicable Renewal Term. Renewal Terms will commence on the date of the expiration of the original Service Term.
- 10. **PAYMENTS:** ChargePoint will send you an invoice for your Assure coverage on or after the date the applicable Charging Stations are shipped to you. Payment is due within thirty (30) days of the invoice date. If you have purchased extended Assure coverage and have chosen the annual payment option, ChargePoint will invoice each annual payment on the anniversary date of your Assure coverage. All payments shall be made in U.S. Dollars (or if you are located in Canada, Canadian dollars) and may be made by check, wire transfer, ACH payment system or other means approved by ChargePoint. You may not offset any amounts due to ChargePoint hereunder against amounts due to you under this Agreement or any other agreement. Fees payable to ChargePoint do not include any Taxes, and you are responsible for any and all such Taxes. All payment obligations under this Agreement are non-cancelable and non-refundable. 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. You will reimburse ChargePoint for any fees as may be authorized by a court of competent jurisdiction. If any amount owing by you under this Agreement is more than thirty (30) days overdue, ChargePoint may, without otherwise limiting ChargePoint's rights or remedies, (a) terminate this Agreement and (b) refuse to provide Assure coverage until ChargePoint has received payment in full.
- 11. **TERMINATION:** You may terminate your Assure coverage without prejudice to any other remedy at law or equity: (i) if ChargePoint is in material breach of any of its obligations under Assure and has not cured such breach within thirty (30) days of the date of its receipt of written notice thereof or (ii) upon providing thirty (30) days prior written notice.

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Upon termination for cause pursuant to this Section 11(i), ChargePoint will refund a pro-rata portion of the fees you paid for Assure. Upon any termination for any other reason, you will not be entitled to any refund of any fees paid.

- 12. **TRANSFERS:** Your Assure coverage applies only to the Charging Stations and installation site for which it was purchased. Subject to Section 20 of this Agreement, if you sell or otherwise transfer your Charging Stations with an active Assure subscription to a third-party, and those Charging Stations are moved or otherwise transferred away from the original installation site, your Assure coverage may not be transferred without ChargePoint's prior written consent.
- 13. **REPLACEMENT PARTS AND STATIONS:** Replacement parts or Charging Stations that have been replaced (collectively "Replacement Parts") that are provided by ChargePoint pursuant to your Assure coverage may be remanufactured or reconditioned parts or Charging Stations or, if the exact Charging Station is no longer manufactured by ChargePoint, a Charging Station with substantially similar functionality. Any Replacement Parts provided under your Assure coverage will become your property and all returned parts or returned Charging Stations, whether under warranty or not, will become the property of ChargePoint. Any Replacement Parts will be covered by Assure for the remainder of your Assure coverage or ninety (90) days from the date of delivery of such Replacement Parts, whichever is later.
- 14. **LIMITS ON LIABILITY:** This section limits ChargePoint's liability under Assure. Please read it carefully.
  - a. CHARGEPOINT IS NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST BUSINESS, LOST DATA, LOSS OF USE, OR COST OF COVER INCURRED BY YOU ARISING OUT OF OR RELATED TO YOUR PURCHASE OR USE OF, OR INABILITY TO USE, THE CHARGING STATION, UNDER ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, EVEN IF CHARGEPOINT KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE CUMULATIVE LIABILITY OF CHARGEPOINT FOR ALL CLAIMS WHATSOEVER RELATED TO PERFORMANCE BY CHARGEPOINT OF ITS OBLIGATIONS UNDER CHARGEPOINT ASSURE WILL NOT EXCEED THE PRICE YOU PAID FOR ASSURE. THE LIMITATIONS SET FORTH HEREIN ARE INTENDED TO LIMIT THE LIABILITY OF CHARGEPOINT AND SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.
  - b. Some states or jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

15. **GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION.** The ChargePoint entity entering into this Agreement, the address to which you should direct notices under this Agreement, the governing law, and place of jurisdiction, shall be determined according to you are domiciled:

If you are domiciled in:	The ChargePoint 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)

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Canada	ChargePoint Canada, Inc., a British Columbia corporation	TBD	British Columbia and controlling Canadian federal law	Vancouver, British Columbia, Canada	ADR Institute of Canada
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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 your violation of the intellectual property rights of ChargePoint, 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 ChargePoint, 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.

- 16. **AMENDMENT OR MODIFICATION:** This Agreement may not be amended or modified except pursuant to a writing executed by each of the parties.
- 17. **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.
- 18. **FORCE MAJEURE:** ChargePoint will not be liable for failure to perform any of its obligations hereunder due to causes beyond its reasonable control and occurring without its fault or negligence, including but not limited to fire, flood, earthquake or other natural disaster (irrespective of ChargePoint'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 ChargePoint 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.
- 19. **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.
- 20. **ASSIGNMENT.** Except as otherwise provided under this Agreement, you may not assign any of your rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of ChargePoint. Notwithstanding, you may assign your rights and obligations under this Agreement upon notice to ChargePoint if you sell the property where the Charging Stations were installed, provided that any such purchasing entity assumes all rights and obligations under this Agreement; provided further that, the purchasing entity will not move or otherwise transfer the Charging Stations from original installation site. To the extent the purchasing entity desires to move or otherwise transfer the Charging Stations from the original installation site, Section 12 of this Agreement will apply. In the event of any purported assignment in breach of this Section 20, ChargePoint shall be entitled, at its sole discretion, to terminate this Agreement by providing written notice to you. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. ChargePoint may not assign its rights and obligations under this Agreement without your prior written consent, which shall not be unreasonably withheld; provided however in the event of the sale or transfer of substantially all of its assets, or a sale, merger or

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change of control ChargePoint may, upon written notice, assign any or all rights and obligations contained herein without consent.

- 21. **ENTIRE AGREEMENT.** This Agreement 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. To the extent of any conflict or inconsistency between this Agreement and any purchase order, this Agreement shall prevail.
- 22. **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.
- 23. **ENGLISH LANGUAGE AGREEMENT GOVERNS.** Where ChargePoint has provided you with a translation of the English language version of this Agreement, You agree that the translation is provided for your convenience only and that the English language version of this Agreement governs your 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.

**ATTEST**

**INCORPORATED COUNTY OF LOS ALAMOS**

*Naomi D. Maestas*  
 Naomi D. Maestas  
 County Clerk



By: *Philo S Shelton III* 5/9/2022  
 Philo S. Shelton, III P.E. Date  
 Utilities Manager

**Approved as to form:**

*Kevin Powers for*  
**J. ALVIN LEAPHART**  
**COUNTY ATTORNEY**

**ChargePoint, Inc.**

DocuSigned by:

By: *Henrik Gerdes*

Name: Henrik Gerdes

Title: Chief Accounting Officer, ChargePoint Inc.

Date: 5/10/2022

## TERMS AND CONDITIONS OF PURCHASE

### 1. Placement of Orders.

A. Purchase of Charging Stations. The terms of these Terms and Conditions of Purchase (“Terms”) govern the Company’s purchase of Charging Stations from the applicable ChargePoint entity as defined in section 7(G) below (“ChargePoint”). Company’s purchase of Charging Stations (including, without limitation, any purchase of an extended Assure Warranty) made by Company shall be made by binding, written purchase order specifying the number and model of Charging Station(s) desired to be purchased, requested delivery schedule (which, absent agreement between the parties, shall be a date that is no less than sixty (60) days after the date of the purchase order), any extended Assure Warranty being purchased and that Company’s purchase of Charging Stations is subject to all of the terms and conditions contained in these Terms. Any additional printed terms and conditions in Company’s purchase order conflicting with, varying or adding to the terms and conditions of these Terms, shall be of no force and effect, unless the parties hereto agree in writing, in advance, to accept such terms and conditions.

B. Acceptance of Purchase Orders. All purchase orders and modifications to purchase orders are subject to acceptance or rejection by ChargePoint in its sole discretion. No purchase order shall be binding upon ChargePoint unless and until so accepted in writing by ChargePoint. ChargePoint agrees to use commercially reasonable efforts to notify Company of its acceptance or rejection of Company’s order within ten (10) business days after receipt thereof. Any purchase order accepted by ChargePoint is referred to in these Terms as, an “Accepted Order.” Accepted Orders are non-cancelable, non-returnable and non-refundable.

C. Refusal of Purchase Orders. ChargePoint may withhold shipments to Company if Company has exceed its applicable credit limit, if any, and not provided for prepayment, is in violation of its payment obligations or otherwise is in material breach of these Terms.

D. Stations Require Subscription to SaaS Offerings. The Charging Stations are designed to work with ChargePoint’s cloud-based application services (“SaaS Offerings”). Access to SaaS Offerings requires Company to enter into a Master Services and Subscription Agreement with ChargePoint.

### 2. Delivery

A. Shipping Costs; Terms. All shipping, unless otherwise agreed to by the Parties in writing, shall be FCA ChargePoint’s warehouse. Company shall be responsible for all costs of shipping, transportation, insurance, warehousing, and other charges and costs associated with shipment of the Charging Stations to Company. All shipping dates are approximate and are based upon prompt receipt of all necessary information from Company. In no event shall ChargePoint be liable for any costs related to delay in delivery of the Charging Stations. Company’s sole remedy for any material delay in delivery of the Charging Stations shall be cancellation of the order.

B. Transfer of Title. Delivery of the Charging Stations to Company shall be completed upon delivery of the Charging Stations to Company’s freight forwarder. Risk of loss and damage to the Charging Stations shall pass to Company upon the delivery of such Charging Stations to such freight forwarder. ChargePoint shall use commercially reasonable efforts to deliver Charging Stations ordered by Company on the scheduled delivery date. All claims for non-conforming shipments must be made in writing to ChargePoint within twenty (20) days of the passing of risk of loss and damage, as described above. Any claims not made within such period shall be deemed waived and released.

C. Substitutions. ChargePoint shall have the right to make substitutions and modifications to Charging Stations and in the specifications of Charging Stations to be delivered under the terms of any applicable purchase order, provided that such substitutions or modifications will not materially affect overall Charging Station form, fit, function or safety specifications.

### 3. Invoicing and Payment

A. Invoicing. Unless otherwise agreed in writing by the Parties, ChargePoint shall issue an invoice to Company on or after the date it ships the ordered Charging Stations; provided that, ChargePoint may condition its acceptance of a purchase order on such credit and/or prepayment terms as ChargePoint, in its reasonable discretion, determines appropriate due to, among other things, Company’s prior payment history and/or the size of the order. In the case of any change to the applicable credit and/or prepayment terms, no purchase order or acceptance thereof will be effective unless and until Company has consented in writing thereto. If Company causes a delay in delivery, ChargePoint may issue its invoice at any time on or after the scheduled delivery date. If Company has purchased an extended Assure Warranty and has chosen the annual payment option, ChargePoint will invoice each annual payment on the anniversary date of the Assure Warranty.

B. Payment Terms. ChargePoint will invoice Company at time of shipment of the Charging Stations. All invoices shall be paid within thirty (30) days of Company’s receipt thereof. Fees for Cloud Services subscriptions shall be invoiced at shipment of the Charging Stations to which such Cloud Services subscriptions relate, and on each anniversary date thereof. All invoices for Cloud Services subscriptions shall be paid within thirty (30) days of Company’s receipt thereof. 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. All non-credit shipments, or shipments in excess of Company’s available credit line, if any, shall be prepaid prior to shipment.

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C. No Right of Set-Off; No Right of Return. Invoiced amounts are not subject to reduction by set-off or otherwise without the express written permission of ChargePoint. All sales are final and Company shall have no right of return, provided, that, ChargePoint shall comply with its obligations under the Warranty (as defined below).

D. Taxes, Duties, Etc. All amounts due to ChargePoint under these Terms and/or any applicable purchase order are net of any duties, any sales, use, excise, value-added, withholding, or similar tax of any kind and any and all other fees and charges of any nature (collectively, "Taxes") imposed by the United States, Canada or any foreign, state or local governmental entity, country or regional authority, or instrumentality thereof on the purchase, shipment, use or sale of the Charging Stations by or to Company, other than taxes measured by ChargePoint's income, corporate franchise, or personal property ownership. Where applicable, ChargePoint shall bill Company for the full amount of such taxes and shall include such amount as a separate line item on the invoice(s) sent to the Company; provided that, ChargePoint's failure to so bill the Company shall not relieve Company from the obligation to pay any Tax described in this Section 3.D.

E. Payment Currency. All amount payable under these Terms shall be paid in United States dollars or if Company is located in Canada, Canadian dollars. If Company is located outside of the United States, Company agrees to take all necessary actions required, including registration of these Terms and application for permission to make payments to ChargePoint hereunder, with the appropriate government authorities in the Company's jurisdiction, or such other institution or official, and to take such other measures as may be necessary to comply with any government currency controls in effect in Company's jurisdiction, as soon as reasonably practicable after execution of these Terms. Company shall remit payment to ChargePoint, at Company's option (i) via wire or ACH transfer to an account designated by ChargePoint in writing from time to time or (ii) by check, made out to ChargePoint, Inc.

F. All Orders Subject to Credit Approval. All orders are subject to credit approval by ChargePoint. The amount of credit or terms of payment may be changed or credit withdrawn by ChargePoint in its reasonable discretion without advance notice. ChargePoint may, in its discretion, withhold further manufacture, performance or shipment; require immediate cash payments for past and future shipments or performance; or require other security satisfactory to ChargePoint before further manufacture, performance or shipment is made; and may, if shipment has been made, recover the goods from the carrier pending receipt of such assurances.

G. Provisions Relating to Shipments in Lots. If these terms require or authorize delivery of goods in separate lots, shipments or milestones to be separately accepted by Company, Company may only refuse such portion of a lot, shipment or milestone that fails to comply with the requirements of these terms. Company may not refuse to receive any lot or portion thereof for failure of any other lot or portion or a lot to be delivered or to comply with these terms, unless such right of refusal is expressly provided for on the face hereof. Company shall pay for each lot in accordance with the terms hereof. Products held for Company are at Company's sole risk and expense.

H. Prices do not include Freight, Etc. Except to the extent expressly stated in these terms, ChargePoint's prices do not include any freight, storage, insurance, taxes, excises, fees, duties or other government charges related to the goods, and Company shall pay such amounts or reimburse ChargePoint for any amounts ChargePoint pays. If Company claims a tax or other exemption or direct payment permit, it shall provide ChargePoint with a valid exemption certificate or permit and indemnify, defend and hold ChargePoint harmless from any taxes, costs and penalties arising out of same. ChargePoint's prices include the costs of its standard domestic packing, only. Any deviation from this standard packing (domestic or export), including U.S. Government sealed packing, shall result in extra charges. To determine such extra charges, Company should consult with ChargePoint's sales offices. Any and all increases, changes, adjustments or surcharges (including, without limitation, fuel surcharges) which may be in connection with the freight charges, rates or classification included as part of these terms, shall be for Company's account.

I. Disputes. In the event Company disputes any portion or all of an invoice, it shall notify ChargePoint in writing of the amount in dispute and the reason for its disagreement within twenty-one (21) days of receipt of the invoice. The undisputed portion shall be paid when due, and finance charges on any unpaid portion shall accrue, from the date due until the date of payment, to the extent that such amounts are finally determined to be payable to ChargePoint.

J. Remedies upon Payment Default. Upon Company's default of these terms, ChargePoint may, in addition to any other rights or remedies it may have at law or otherwise, subject to any cure rights of Company, declare the entire balance of Company's account immediately due and payable or foreclose any security interest in the goods delivered. If any unpaid balance is referred for collection, Company agrees to pay ChargePoint, to the extent permitted by law, reasonable attorneys' fees in addition to all damages otherwise available, whether or not litigation is commenced or prosecuted to final judgment, play any court costs or expenses incurred by ChargePoint, and any finance charges accrued on any unpaid balance owed by Company.

K. Suspended Shipments. ChargePoint reserves the right to suspend further shipments of goods if Company is over thirty (30) days late in payment of an undisputed invoice. ChargePoint reserves the right to terminate the order if Company is over sixty (60) days late in payment of an undisputed invoice

**4. Installation**

Company shall be responsible for arranging for the installation and provisioning of the Charging Stations and for the costs thereof. At Company's request, ChargePoint may provide the names and contact information of one or more installers of Charging Stations; provided

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that, in providing such information ChargePoint makes no representation or warranty of any kind, nor does it undertake any liability, with respect to or regarding the quality of any installation or other services performed by any such installer. EXCEPT AS SPECIFICALLY AGREED TO IN WRITING, CHARGEPOINT IS NOT RESPONSIBLE FOR AND WILL NOT BE LIABLE FOR, THE QUALITY OF ANY INSTALLATION SERVICES OR ANY CLAIM IN ANY WAY RELATING TO OR RESULTING FROM SUCH SERVICES.

**5. Warranties/Limitation of Liability**

A. Warranty. The Charging Station is covered by the terms of ChargePoint's standard parts only product Warranty (the "Warranty"), which will expire on one year from the date of installation. All applicable warranties with respect to the Charging Station are set forth in the Warranty, and are hereby incorporated by reference into these Terms.

B. Post-Warranty Maintenance. Company acknowledges and agrees that in order to obtain warranty and/or other maintenance services for the Charging Stations after expiration of the Warranty, Company must purchase extended warranties and/or maintenance agreements directly from ChargePoint.

C. Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 5, CHARGEPOINT MAKES NO WARRANTY WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. CHARGEPOINT EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS BY THE CHARGING STATIONS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CHARGEPOINT DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF CHARGING STATIONS.

D. Limitation of Liability.

i. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS, EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL CHARGEPOINT BE LIABLE TO COMPANY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THESE TERMS OR THE TRANSACTIONS CONTEMPLATED HEREUNDER, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY OR ITS AGENTS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ii. COMPANY'S SOLE REMEDY FOR ANY BREACH BY CHARGEPOINT OF ITS OBLIGATIONS OR WARRANTIES UNDER THESE TERMS SHALL BE LIMITED TO, AT CHARGEPOINT'S OPTION, REPAIR OR REPLACEMENT OF THOSE CHARGING STATIONS TO WHICH SUCH BREACH IS APPLICABLE OR REFUND BY CHARGEPOINT OF ALL OR A PART OF THE PURCHASE PRICE OF THE NON-CONFORMING CHARGING STATIONS.

E. Warranty Exclusions. The Warranty set forth in these Terms is subject to certain exclusions as more fully set forth in the Warranty. COMPANY HAS BEEN INFORMED AND UNDERSTANDS THAT, IN THE EVENT ANY SUCH EXCLUSION BECOMES APPLICABLE, ALL REPRESENTATIONS AND WARRANTIES CONTAINED IN THESE TERMS SHALL IMMEDIATELY BECOME NULL AND VOID.

F. Exclusive Remedies. THE REMEDIES CONTAINED IN SECTION 5 ARE COMPANY'S SOLE AND EXCLUSIVE REMEDIES AND ARE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES COMPANY MAY HAVE AGAINST CHARGEPOINT WITH RESPECT TO NONCONFORMANCE OF THE CHARGING STATIONS.

**6. Intellectual Property**

A. Restrictions on Use Company shall not: (i) create derivative works based on the Charging Stations, (ii) copy, frame or mirror any part or content of the Charging Stations, (iii) reverse engineer any Charging Station, or (iv) access the Charging Stations 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 the Charging Stations.

B. Ownership of Intellectual Property All right, title and interest in and to any intellectual property related in any way to the Charging Stations is, and shall remain, the exclusive property of ChargePoint. For these purposes, the term "intellectual property" shall mean, all of a party's patents, patent applications, patent rights, copyrights, moral rights, algorithms, devices, application programming interfaces, databases, data collections, diagrams, inventions, methods and processes (whether or not patentable), know-how, trade secrets, trademarks, service marks and other brand identifiers, network configurations and architectures, proprietary information, protocols, schematics, specifications, software (in any form, including source code and executable code), techniques, interfaces, URLs, web sites, works of authorship, and all other forms of technology, in each case whether or not registered with a governmental entity or embodied in any tangible form and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world in any way arising prior to or during the term of these Terms.



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7. **General**

A. **Attorneys' Fees.** If any action at law or in equity is necessary to enforce the terms of these Terms, the prevailing party may recover costs as allowed by law.

B. **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account strikes, shortages, riots, insurrection, fires, flood, storm, explosion, acts of God, war, governmental action, labor conditions, earthquakes, or any other cause which is beyond the reasonable control of such party.

C. **Waiver.** The failure of either party to require performance by the other party of any provision hereof shall not affect such party's full right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

D. **Severability.** In the event that any provision of these Terms shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render these Terms unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted as to best accomplish the objectives of such provisions within the limits of applicable law or applicable court decisions.

E. **Assignment.** The rights and liabilities of the parties hereto shall bind and inure to the benefit of their successors, executors or administrators, provided, however, that neither ChargePoint nor Company may assign or delegate these Terms or any of its licenses, rights or duties under these Terms, whether by operation of law or otherwise, without the prior written consent of the other party in its reasonable discretion; provided, however, that Company and ChargePoint shall each be entitled to assign these Terms to an affiliate or to its successor in interest by way of merger, acquisition of substantially all of the assets of assignor or any similar event (collectively, "Acquisition Transactions"); and provided further, however, that notwithstanding any Acquisition Transaction, Company shall not assign these Terms to any competitor of ChargePoint without ChargePoint's prior written consent, in its sole discretion. Any attempted assignment in violation of this provision shall be void.

F. **Notices.** Any notice, request, demand or other communication by the terms hereof required or permitted to be given by one part to the other shall be given in writing by email with confirmation of receipt, certified or registered mail, return receipt requested, fax or courier addressed to such other party or delivered to the address for each party set forth below their respective signatures, or at such other fax, email address or office address as may be given from time to time by either of the parties.

G. **Governing Law, Jurisdiction and Dispute Resolution.** The ChargePoint entity entering into this Agreement, the address to which Company should direct notices under this Agreement, the governing law, and place of jurisdiction, shall be determined according to where Company is domiciled:

<b>If Company is domiciled in:</b>	<b>The ChargePoint Entity entering into this Agreement is:</b>	<b>Notices should be addressed to:</b>	<b>Governing law is:</b>	<b>Place of jurisdiction:</b>	<b>Forum:</b>
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	TBD	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.

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Except with respect to any matter relating to Company's violation of the intellectual property rights of CHARGEPOINT, 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 CHARGEPOINT, 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 recover costs as allowed by law.

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

H. Entire Agreement. These Terms and the attachments hereto constitute the entire agreement between the parties regarding its subject matter. It supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. These Terms shall not be modified unless done so in a writing signed by an authorized representative of each party.

I. 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.

ATTEST



INCORPORATED COUNTY OF LOS ALAMOS

Naomi D. Maestas  
Naomi D. Maestas  
County Clerk

BY: Philo S Shelton III 5/9/2022  
Philo S. Shelton, III P.E. Date  
Utilities Manager

Approved as to form:

Kevin Powers for  
J. ALVIN LEAPHART  
COUNTY ATTORNEY

ChargePoint, Inc. DocuSigned by:  
By: Henrik Gerdes  
0273ECE89F57429...  
Name: Henrik Gerdes  
Title: Chief Accounting Officer, ChargePoint Inc.  
Date: 5/10/2022



# Quotation

Driving a Better Way™  
chargepoint.com

**Sales Representative:** Carlos San Miguel  
**E-Mail:** carlos.sanmiguel@chargepoint.com  
**Telephone:**

**Quote Number:** Q-188573-3  
**Date:** 3/8/2022  
**Expires On:** 4/29/2022

**Primary Contact:**

**Bill To Address**

Rexel Denver CO  
11175 East 55th Avenue, Suite 100  
Denver Colorado 80239  
United States

**Ship To Address**

Los Alamos County Government Recycling Informa  
1000 Central Ave  
Los Alamos New Mexico 87544  
United States

Product Name	Product Description	Qty	List Price	Disc%	Unit Price	Total Price
CPE250C-625-CCS1-200A-CHD	ChargePoint Express 250 Station (62.5 kW) - includes Express 250 Station, 2x Power Modules, 1x CCS1 200A cable, 1x CHAdemo cable, North America Modem/SIM, cUL and UL listed, requires CPE250-CMT-IMPERIAL in US, CPE250-CMT-METRIC in Canada. CPE250-CMT-IMPERIAL/METRIC not included.	2	USD 44,065	12	USD 38,760	USD 77,520
CPE250-TOOLKIT-F	CPE250 Tool Kit	1	USD 0	0	USD 0	USD 0
DC-UNIVERSAL-CMT-METRIC	Required metal bracket to align conduits and mounting bolts for DC power delivery products when cable entrance is from below. This bracket is to be installed into the foundation before the concrete pad is poured. Metric Units. Required for CPE250 and PDD series.	1	USD 0	0	USD 0	USD 0



Product Name	Product Description	Qty	List Price	Disc%	Unit Price	Total Price
CPE250-ASSURE-5	5 prepaid years of ChargePoint Assure for CPE250 station. Includes Parts and Labor Warranty, Remote Technical Support, On-Site Repairs when needed, Unlimited Configuration Changes, and Reporting.	2	USD 16,275	5	USD 15,500	USD 31,000
CPE250-COMMISSIONING	This service includes on-site validation of electrical capacity, transformers, panels, breakers, wiring, cellular coverage so that the station meets all ChargePoint and local code requirements. In addition to verifying and testing the installation, Commissioning also ensures the station is connected to the ChargePoint network, completing software updates and pairing configuration if applicable. In parallel, the ChargePoint Activations team will configure the station and apply policies according to the customer's specifications. A final Commissioning Report will be provided to the customer. Note that if Commissioning cannot be performed due to site or installation deficiencies for which ChargePoint is not responsible, the customer will incur a rescheduling fee to cover redeployment costs. Priced per Express CPE250 station.	2	USD 900	100	USD 0	USD 0



Product Name	Product Description	Qty	List Price	Disc%	Unit Price	Total Price
CPCLD-ENTERPRISE-DC-5	Prepaid Enterprise Cloud Plan subscription with advanced station management features such as: Station Activation, Custom Video uploads, and Automatic Software Updates, driver and fleet management features including: Access Control and Pricing & Automatic Payment Collection, as well as advanced energy and power management features which include: Time of Use Power Sharing and Energy Management APIs. Real-time dashboards and reports provided for applicable features including 15 min meter data readings and associated advanced energy reports.	2	USD 4,799	0	USD 4,799	USD 9,598
CPSUPPORT-ACTIVE	Initial Station Activation & Configuration Service includes activation of cloud services and configuration of radio groups, custom groups, connections, access control, visibility control, pricing, reports and alerts. One time initial service per station.	2	USD 349	100	USD 0	USD 0

**Quote Total:** USD 118,118.00  
**Estimated Tax:** USD 8,536.02  
**Shipping Fee:** USD 890.25  
**Grand Total:** USD 127,544.27

**Quote Acceptance**

- + Each Assure and Cloud Services subscription that you purchase for a Charging Station will commence ninety (90) days from the date the Charging Station associated with that subscription is shipped to you and will last for the subscription length selected in the applicable order.
- + All pricing is confidential between Customer and ChargePoint.
- + All prices are FCA ChargePoint warehouse(s).
- + Customer to be invoiced at time of shipment.
- + Sales tax in applicable states and shipping costs will be applied to this quote at time of invoicing.
- + All invoices are Net 30 days.
- + Credit Checks are required for new customers.
- + Pricing does not include installation or mounting services unless specifically quoted above.
- + Additional Purchase Terms and Conditions can be found at <http://www.chargepoint.com/termsandconditions>
- + Additional terms and conditions for ChargePoint Assure can be found at <http://www.chargepoint.com/legal/assure>
- + Purchaser confirms that the shipping and billing information provided in the Quotation is accurate for ChargePoint's shipping and invoicing purposes.



**By signing this quote I hereby acknowledge that I have the authority to purchase the product detailed on this document on behalf of my organization. Furthermore, I agree to the above terms and conditions and that this signed quote shall act as a purchase order.**

Signature :

Title :

Name (Print) :

Date :

Company Name :

Accounts Payable Contact Name :

Accounts Payable Contact E-Mail :

Requested Ship Date :



**Certificate Of Completion**

Envelope Id: BD9E647B953C4A13A0DECC16D1BE83C6  
Subject: Please DocuSign: AGR22-931 ChargePoint  
Source Envelope:  
Document Pages: 35  
Certificate Pages: 4  
AutoNav: Enabled  
Envelope Stamping: Enabled  
Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Status: Sent

Envelope Originator:  
Derrill Rodgers  
derrill.rodgers@lacnm.us  
IP Address: 76.113.57.150

**Record Tracking**

Status: Original  
5/8/2022 9:11:55 PM

Holder: Derrill Rodgers  
derrill.rodgers@lacnm.us

Location: DocuSign

**Signer Events**

Kevin Powers for  
kevin.powers@lacnm.us  
Security Level: Email, Account Authentication (None)

**Signature**

*Kevin Powers for*

**Timestamp**

Sent: 5/8/2022 9:19:50 PM  
Viewed: 5/9/2022 2:52:44 PM  
Signed: 5/9/2022 2:52:56 PM

Signature Adoption: Pre-selected Style  
Signed by link sent to kevin.powers@lacnm.us  
Using IP Address: 76.113.29.129

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Philo S Shelton III  
philo.shelton@lacnm.us  
Utilities Manager  
Security Level: Email, Account Authentication (None)

*Philo S Shelton III*

Sent: 5/9/2022 2:52:57 PM  
Viewed: 5/9/2022 3:54:37 PM  
Signed: 5/9/2022 3:55:00 PM

Signature Adoption: Pre-selected Style  
Signed by link sent to philo.shelton@lacnm.us  
Using IP Address: 73.127.164.205

**Electronic Record and Signature Disclosure:**  
Accepted: 5/9/2022 3:54:37 PM  
ID: 559da800-c875-4074-a8f9-dd3216ad46ce  
Company Name: Carahsoft OBO County of Los Alamos

Ubaldo Barela  
ubaldo.barela@lacnm.us  
Signing Group: Clerks  
Security Level: Email, Account Authentication (None)

*Ubaldo Barela*

Sent: 5/9/2022 3:55:02 PM  
Viewed: 5/9/2022 3:55:46 PM  
Signed: 5/9/2022 3:56:55 PM



Signature Adoption: Uploaded Signature Image  
Signed by link sent to ubaldo.barela@lacnm.us  
Using IP Address: 198.99.209.80

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Charge Point  
rosa.choi@chargepoint.com  
Security Level: Email, Account Authentication (None)

Sent: 5/9/2022 3:56:59 PM  
Resent: 5/10/2022 3:20:10 PM  
Viewed: 5/10/2022 4:27:56 PM

**Electronic Record and Signature Disclosure:**

**Signer Events**

**Signature**

**Timestamp**

Accepted: 5/10/2022 11:03:19 AM  
ID: 70771e10-f7df-41ef-a8b9-343588efae23  
Company Name: Carahsoft OBO County of Los Alamos

Clerks  
clerks@lacnm.us  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Accepted: 5/5/2022 8:58:55 AM  
ID: 80a29175-49ed-4d8f-8f60-a2bba2345b16  
Company Name: Incorporated County of Los Alamos

**In Person Signer Events**

**Signature**

**Timestamp**

**Editor Delivery Events**

**Status**

**Timestamp**

**Agent Delivery Events**

**Status**

**Timestamp**

**Intermediary Delivery Events**

**Status**

**Timestamp**

**Certified Delivery Events**

**Status**

**Timestamp**

**Carbon Copy Events**

**Status**

**Timestamp**

Victoria Pacheco  
victoria.pacheco@lacnm.us  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Melissa Salmon  
melissa.salmon@lacnm.us  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Ben Olbrich  
ben.olbrich@lacnm.us  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Accepted: 5/6/2022 3:35:36 PM  
ID: 3d5379ef-b77a-4e9c-9e96-a47a95f8cf41  
Company Name: Incorporated County of Los Alamos

Carlos San Miguel  
carlos.sanmiguel@chargepoint.com  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Tracey Alarid  
tracey.alarid@lacnm.us  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign



**Carbon Copy Events**

**Status**

**Timestamp**

Heather Garcia

heather.garcia@lacnm.us

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**

Accepted: 4/22/2022 2:38:30 PM

ID: c906a854-ceb1-4b62-ac4a-72af16c459c0

Company Name: Incorporated County of Los Alamos

Kathy Casados

kathy.casados@lacnm.us

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

**Witness Events**

**Signature**

**Timestamp**

**Notary Events**

**Signature**

**Timestamp**

**Envelope Summary Events**

**Status**

**Timestamps**

Envelope Sent

Hashed/Encrypted

5/8/2022 9:19:50 PM

**Payment Events**

**Status**

**Timestamps**

**Electronic Record and Signature Disclosure**

Parties agreed to: Philo S Shelton III, Charge Point, Clerks, Ben Olbrich, Heather Garcia

## **AGREEMENT TO USE DOCUSIGN FOR ELECTRONIC SIGNATURES**

### **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, Los Alamos County (“County”) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, for this Electronic Record and Signature Disclosure (ERSD), and confirm your agreement by selecting the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session.

#### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

#### **Acknowledging your access and consent to receive and sign documents electronically**

Pursuant to the New Mexico Uniform Electronic Transactions Act, you hereby agree to conduct transactions with the County by electronic means through DocuSign. You agree that your electronic signature represents your intent to sign the electronic record and is the means by which you indicate an intent to bind yourself with the document in a manner that has legal significance; it constitutes legally-binding evidence of your intention with regard to the document. You further agree that your electronic signature as used through DocuSign is the legal equivalent of a handwritten signature. You confirm that you can access this information electronically, which will be similar to other electronic notices and disclosures that we may provide to you, that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, by selecting the check-box next to ‘I agree to use electronic records and signatures,’ you consent to receiving and signing documents as described herein; select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.