



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Date:

NOV 04 2020

National Car Charging, LLC
209 Kalamath Street, STE 3
Denver, CO 80223

Attention: James Burness, Chief Executive Officer

Reference: RFP 2000002956; Electric Vehicle Charging Stations

Acceptance Agreement

Contract Number: 4400009695

This acceptance agreement signifies a contract award to National Car Charging, LLC for Electric Vehicle Charging Stations as follows:

The period of the contract is from Date of Award through October 31, 2025 with five (5) one-year renewal options.

The contract award shall be in accordance with:

- 1) This Acceptance Agreement; and
- 2) The Attached Memorandum of Negotiations.

Please note that this is not an order to proceed. A Purchase Order, which constitutes your notice to proceed, will be issued to your firm. Please provide your Insurance Certificate according to Special Provisions paragraph 16 within ten (10) days after receipt of this letter.

Sincerely,

Cathy A. Muse, CPPO
Director/County Purchasing Agent



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

MEMORANDUM OF NEGOTIATION RFP 2000002956

The County of Fairfax (hereinafter called the County) and National Car Charging LLC (hereinafter called the Contractor) hereby agree to the following in the execution of Contract **4400009695**. The final contract contains the following items:

- a. County's Request for Proposal RFP 2000002956 and all Addenda;
- b. Contractor's Technical proposal and Cost Proposal dated November 5, 2019;
- c. Contractor's negotiation responses dated March 5, 2020 and April 28, 2020;
- d. ChargePoint Master Services and Subscription Agreement signed by ChargePoint, Inc. on October 13, 2020;
- e. ChargePoint Assure Terms and Conditions of Service signed by ChargePoint, Inc. on October 13, 2020;
- f. County purchase orders;
- g. This Memorandum of Negotiations; and
- h. Any subsequent amendments to the Contract.

In addition, the County and the Contractor agree to the following:

1. The Contractor is the single point of contact for this Contract and is responsible for any partners or subcontractors. Contractor's use of partners, subcontractors, or third-parties in providing the contracted for products and services to the County does not relieve Contractor of its duties under this Contract or change the terms of this Contract. All payments under this Contract, including those to subcontractors or third parties, shall be made to Contractor who shall be responsible for paying any subcontractor or third-party vendor under Contract No. 4400009695, or any other agreement. If Contractor fails to make timely payment to any subcontractor or third-party vendor, then the Contractor is liable to the County for any damages caused by the Contractor's failure to make timely payment. Nothing in any agreement with any subcontractor or third-party vendor diminishes or alters any rights of the County, or the obligations of the Contractor, under Contract No. 4400009695, or any other agreement.
2. The County accepts the following proposed exception from the Contractor's Technical Proposal dated November 5, 2019.
 - Special Provisions, Section 16. Insurance: paragraph 16.2 e is removed.

Memorandum of Negotiations
RFP 2000002956
Page 2

3. To remove and replace pricing from Cost Proposal dated November 5, 2019 with the pricing listed in Contractor's negotiation memo dated March 5, 2020.

ACCEPTED BY:

DocuSigned by:

Jim Burness

James Burness, Chief Executive Officer
National Car Charging LLC

Cathy A. Muse

Cathy A. Muse, CPPO
Director/County Purchasing Agent

2020 October 19 | 11:44:03 PDT

Date

10/30/20

Date

March 5, 2020

County of Fairfax, Virginia
Department of Procurement and Material Management
Attn: Mary Walker
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035

Ms. Walker,

Thank you for the opportunity to provide a response to your questions and this "Best and Final Offer" or RFP 2000002956. We were honored to be invited to present in person last month and we hope the County ultimately chooses the NCC team for this project.

Our responses to your questions are as follows:

1. Please see the accompanying price list, including MSRP, Fairfax County Price, and Discount as requested. You'll see that the price list includes each of the categories listed. The basic warranty is always one-year parts-only, however the Assure Total Station Care plan can be purchased either up-front or annually.

Regarding installation and the INSTALLVALID line item, this is what the industry describes as a "stub-up" installation in which another party (the County's internal electrical team, for example) provides the underlying infrastructure, including the conduit, wires, breakers, and concrete base, and the NCC/ChargePoint installer performs the final assembly, wiring connection, testing, certification, pinpointing, and validation. More customized installations can be quoted as needed.

We should mention that since the time of the original submission, ChargePoint has announced a price increase for the Networking Plans that is approximately 17.5% above the current levels. The pricing for Networking today hasn't changed in 5 years, so an increase was overdue. We have petitioned ChargePoint to allow us to honor the pricing we proposed with our submission and our BAFO price sheet reflects the current pricing.

One important note about Assure is that Activation and Site Validation are free with the 5-year up-front Assure plan, and 50% off if ASSURE5-COMMIT is purchased. The COMMIT plan is a non-binding expression of interest in purchasing Assure for the time period designated, but can be dropped at any time. In addition to being non-binding, it locks in your Assure pricing during the term chosen. For example, if purchased annually, Assure for a CT4000 station would be \$659. If you designate COMMIT at the time of purchase, the annual price becomes \$533.20.

Site Validation for CT4000s is priced per "group," defined as a cluster of up to 5 units within 150' of each other. For CPE250 units it is billed per two power modules (two fit into each dispenser), and for CPF50 units it is billed per cluster within 150' of each other.

On the subject of replacement, this can be interpreted in a few different ways. ChargePoint has a program to replace head units damaged by accidents or vandalism at very reasonable rates (today it is \$700-\$1400 per head depending on the nature of the damage). Additionally, ChargePoint currently has a trade-in program for competitive or older ChargePoint units, but they retain the right to alter the program at any time. As of

today, a customer can receive an CT4000 unit with an 18' cable, the first year of COMMERCIAL networking plan, Activation, and the first year of ASSURE for \$3,000. Not included is labor and shipping. Again, while this program has existed for approximately two years, there is no guarantee ChargePoint will continue it moving forward.

Lastly, ChargePoint charges a 10% transaction fee when revenue is collected.

2. For a Vehicle Services facility, we would recommend a dual pedestal CPF50 unit with cord management. Assuming another party provides the underlying infrastructure, the various components that go into a complete set-up include:

Quantity	Item	Unit Price	Extended Price
1	CPF50-L18-PEDMNT-CMK6-Dual Fleet Station with Pedestal and Cord Management	\$3,963	\$3,963
2	CPCLD-POWER-1 Fleet Networking Plan	\$194	\$388
1	NCC Activation	\$0	\$0
1	CPGW1-LTE	\$0	\$0
1	CPF-INSTALLVALID	\$1,100	\$1,100
2	CPF-ASSURE1	\$178	\$356
1	Shipping	\$150	\$150
	TOTAL		\$5,957

3. The tasks described in this item mirror the CT4000-INSTALLVALID tasks and as a result, the cost for each of the different CT4000 units would be the same at \$1,100 per unit, regardless of whether it is ground mounted or wall-mounted.
4. Since a map or additional information was not provided for this scenario, we are quoting this item by the foot, plus the cost of breakers, a concrete base, and a day's worth of labor. The breakers cost \$200, the conduit and wire cost \$10/ft, trenching costs \$60/linear foot, and a concrete base costs \$900, plus labor of \$695. So, for a 50' run, the cost of the infrastructure, not including the stub-up installation, would be \$5,295. This figure does not include any wall penetrations and assumes the service panel has the capacity needed.
5. Our cost proposal for training is very simple:
 - a. Initial in-person training: No charge
 - b. On-going new employee training via video conference (every six months): No charge
 - c. Additional in-person training: Cost of airfare from Denver, hotel and rental car. Based on today's travel costs, this would be approximately \$1,000 for two days.

Once again, thank you for the opportunity to submit our answers to your questions and we are happy to answer additional questions that may come up during the remainder of this process.

Regards,



Jim Burness
CEO

ChargePoint Pricing



Order Code	Description	Retail	Fairfax County Price	Discount
CT4000 Series				
CT4011-GW1	Single bollard gateway	\$ 5,010	\$ 3,707	26%
CT4013-GW1	Single wall-mount gateway	\$ 4,505	\$ 3,334	26%
CT4021-GW1	Dual bollard gateway	\$ 7,210	\$ 5,335	26%
CT4023-GW1	Dual wall-mount gateway	\$ 6,705	\$ 4,962	26%
CT4025-GW1	Dual bollard gateway (with 23' cord)	\$ 8,210	\$ 6,075	26%
CT4027-GW1	Dual wall-mount gateway (with 23' cord)	\$ 7,705	\$ 5,702	26%
CT4000-PMGMT	Power Share/Power Select kit	\$ 50	\$ 43	15%
CT4001-CCM	Bollard mounting kit	\$ 95	\$ 86	10%
CT4000 SOFTWARE (each <u>PORT</u> must have a software plan purchased) Add -REN-# for renewals				
CPCLD-COMMERCIAL-1	Commercial ChargePoint Network Plan, 1-year prepaid	\$ 280	\$ 272	3%
CPCLD-COMMERCIAL-2	Commercial ChargePoint Network Plan, 2-year prepaid	\$ 500	\$ 485	3%
CPCLD-COMMERCIAL-3	Commercial ChargePoint Network Plan, 3-year prepaid	\$ 705	\$ 684	3%
CPCLD-COMMERCIAL-4	Commercial ChargePoint Network Plan, 4-year prepaid	\$ 910	\$ 883	3%
CPCLD-COMMERCIAL-5	Commercial ChargePoint Network Plan, 5-year prepaid	\$ 1,105	\$ 1,072	3%
CPCLD-ENTERPRISE-1	Enterprise ChargePoint Network Plan, 1-year prepaid	\$ 480	\$ 466	3%
CPCLD-ENTERPRISE-2	Enterprise ChargePoint Network Plan, 2-year prepaid	\$ 857	\$ 831	3%
CPCLD-ENTERPRISE-3	Enterprise ChargePoint Network Plan, 3-year prepaid	\$ 1,209	\$ 1,173	3%
CPCLD-ENTERPRISE-4	Enterprise ChargePoint Network Plan, 4-year prepaid	\$ 1,560	\$ 1,513	3%
CPCLD-ENTERPRISE-5	Enterprise ChargePoint Network Plan, 5-year prepaid	\$ 1,894	\$ 1,837	3%
CT4000 INSTALLATION & ACTIVATION (per station)				
NCC ACTIVATION	Activation and Configuration by NCC	\$ 349	\$ -	100%
CP SUPPORT-ACTIVE	Activation and Configuration by ChargePoint	\$ 349	\$ 314	10%
CT4000-INSTALLVALID	Stub-up installation and validation by ChargePoint	\$ 1,250	\$ 1,100	12%
NCC-CBASE	Concrete base	\$ 900	\$ 900	0%
CT4000-SITEVALID	CT4000 Site Validation, per group (up to 5 units within 150'). Free with ASSURE5, 50% off with ASSURE5-COMMIT	\$ 599	\$ 539	10%
CT4000 EXTENDED WARRANTIES (priced per station, 1-year parts only is standard, SITEVALID or INSTALLVALID required)				
CT4000-ASSURE1	Assure Parts & Labor Warranty incl. Monitoring 12-month	\$ 740	\$ 659	11%
CT4000-ASSURE2	Assure Parts & Labor Warranty incl. Monitoring 24-month	\$ 1,410	\$ 1,255	11%
CT4000-ASSURE3	Assure Parts & Labor Warranty incl. Monitoring 36-month	\$ 2,064	\$ 1,837	11%
CT4000-ASSURE4	Assure Parts & Labor Warranty incl. Monitoring 48-month	\$ 2,460	\$ 2,189	11%
CT4000-ASSURE5	Assure Parts & Labor Warranty incl. Monitoring 60-month	\$ 2,495	\$ 2,221	11%
CT4000-ASSURE1-COMMIT	1yr Committed Assure Plan	\$ 817	\$ 727	11%
CT4000-ASSURE2-COMMIT	2yr Committed Assure Plan	\$ 1,634	\$ 1,454	11%
CT4000-ASSURE3-COMMIT	3yr Committed Assure Plan	\$ 2,322	\$ 2,067	11%
CT4000-ASSURE4-COMMIT	4yr Committed Assure Plan	\$ 2,940	\$ 2,617	11%
CT4000-ASSURE5-COMMIT	5yr Committed Assure Plan	\$ 2,995	\$ 2,666	11%

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Order Code	Description	Retail	Fairfax County Price	Discount
CPE Series				
CPE250C-625-CCS1-CHD	CP Express 250 Station (62.5 kW) includes Express 250 Station, 2x power Modules, 1x CCS1 cable, 1x CHAdEMO cable and software upgrade token for Express 250 to increase max power from 50 kW to 62.5 kW	\$ 40,800	\$ 36,720	10%
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. Include (1) CPE250-CMT on orders for this station.	\$ 40,800	\$ 36,720	10%
CPE250-CMT-IMPERIAL	Concrete Mounting Template for Express DC Stations. Base Mounting template designed for CP250 and Express Plus Stations. This template is used to align conduits and mounting bolts. This template is to be installed into the foundation before the concrete pad is poured.	\$ -	\$ -	n/a
CPE250-PAIRINGKIT-F	The kit required for each CPE250 station that is to be installed in a paired configuration. One kit per station.	\$ 500	\$ 450	10%
CPE250-4/0LUGS-F	4/0 T&B lugs used in pairing of CPE250. Includes 4 lugs per pack. One pack per station	\$ -	\$ -	10%
CPE250-3/0LUGS-F	3/0 T&B lugs used in pairing of CPE250. Includes 4 lugs per pack. One pack per station	\$ -	\$ -	10%
CPE SOFTWARE (each dispenser must have a software plan purchased) Add -REN-# for renewals				
CPCLD-COMMERCIAL-DC-1	Commercial CP Network Plan for DCFC, 1-year prepaid	\$ 560	\$ 543	3%
CPCLD-COMMERCIAL-DC-2	Commercial CP Network Plan for DCFC, 2-years prepaid	\$ 1,000	\$ 970	3%
CPCLD-COMMERCIAL-DC-3	Commercial CP Network Plan for DCFC, 3-years prepaid	\$ 1,410	\$ 1,368	3%
CPCLD-COMMERCIAL-DC-4	Commercial CP Network Plan for DCFC, 4-years prepaid	\$ 1,820	\$ 1,765	3%
CPCLD-COMMERCIAL-DC-4	Commercial CP Network Plan for DCFC, 5-years prepaid	\$ 2,210	\$ 2,144	3%
CPCLD-ENTERPRISE-DC-1	Enterprise CP Network Plan for DCFC, 1-year prepaid	\$ 960	\$ 931	3%
CPCLD-ENTERPRISE-DC-2	Enterprise CP Network Plan for DCFC, 2-year prepaid	\$ 1,714	\$ 1,663	3%
CPCLD-ENTERPRISE-DC-3	Enterprise CP Network Plan for DCFC, 3-year prepaid	\$ 2,418	\$ 2,345	3%
CPCLD-ENTERPRISE-DC-4	Enterprise CP Network Plan for DCFC, 4-year prepaid	\$ 3,120	\$ 3,026	3%
CPCLD-ENTERPRISE-DC-5	Enterprise CP Network Plan for DCFC, 5-year prepaid	\$ 3,788	\$ 3,674	3%
CPE INSTALLATION & ACTIVATION (per station)				
NCC ACTIVATION	Activation and Configuration by NCC	\$ 349	\$ -	100%
CP SUPPORT-ACTIVE	Activation and Configuration by ChargePoint	\$ 349	\$ 314	10%
CPE250-NEW-PAIRED-INSTALLVALID	For a new CPE250 paired installation, the CPE250-NEW-PAIRED-INSTALLVALID will have a ChargePoint O&M partner install both CPE250 stations for pairing and, if needed, the CPE250-PAIRINGKIT-F. The CPE250-PAIRINGKIT-F is purchased separately. CPE250-NEW-PAIRED-INSTALLVALID assumes that the customer has prepped the site for the paired CPE250 installation as defined in the site prep guide and to all the local codes and is priced for 1 paired installation (2 stations).	\$ 7,000	\$ 6,510	7%
CPE250-ENABLED-PAIRED-INSTALLVALID	For an existing site, where two installed CPE250 stations are to be paired, the CPE250-ENABLE-PAIRED-INSTALLVALID will have a ChargePoint O&M partner install the CPE250-PAIRINGKIT-F (purchased separately), update firmware required for pairing and will connect the appropriate cables for communication and DC power sharing. CPE250-ENABLE-PAIRED-INSTALLVALID assumes that the two stations are already installed (they will not be moved) and that the conduit required for pairing is in place as specified by the site design guide and is priced for 1 paired installation (2 stations).	\$ 2,000	\$ 1,860	7%
CPE250-INSTALLVALID	Customer works with their own contractor to perform the all construction to the point where the stations can be bolted down and connected. ChargePoint will engage one of their O&M Partners to install the station on the prepared site and validation of electrical capacity, transformers, panels, breakers, wiring, cellular coverage and that station installation meets all ChargePoint published requirements and local codes. A successful Site Validation is a prerequisite to purchase ChargePoint Assure. CPE250-INSTALLVALID is priced per CPE250 station (Not applicable for Express Plus installations).	\$ 3,500	\$ 3,255	7%
CPE250-SITEVALID	CPE250-Site Validation, per two modules (required for Assure). Free with ASSURE% or 50% off with ASSURE5-COMMIT	\$ 600	\$ 540	10%
CPE250 EXTENDED WARRANTIES (1-year parts only is standard, requires SITEVALID or INSTALLVALID)				
EXPRESS-ASSURE1	1yr Prepaid Assure Plan (price per two power modules)	\$ 4,200	\$ 3,738	11%
EXPRESS-ASSURE2	2yr Prepaid Assure Plan (price per two power modules)	\$ 8,000	\$ 7,120	11%
EXPRESS-ASSURE3	3yr Prepaid Assure Plan (price per two power modules)	\$ 11,100	\$ 9,879	11%
EXPRESS-ASSURE4	4yr Prepaid Assure Plan (price per two power modules)	\$ 13,600	\$ 12,104	11%
EXPRESS-ASSURE5	5yr Prepaid Assure Plan (price per two power modules)	\$ 15,500	\$ 13,795	11%
EXPRESS-ASSURE1-COMMIT	1yr Committed Assure Plan (price per two power modules)	\$ 4,900	\$ 4,361	11%
EXPRESS-ASSURE2-COMMIT	2yr Committed Assure Plan (price per two power modules)	\$ 9,800	\$ 8,722	11%
EXPRESS-ASSURE3-COMMIT	3yr Committed Assure Plan (price per two power modules)	\$ 14,100	\$ 12,549	11%
EXPRESS-ASSURE4-COMMIT	4yr Committed Assure Plan (price per two power modules)	\$ 17,600	\$ 15,664	11%
EXPRESS-ASSURE5-COMMIT	5yr Committed Assure Plan (price per two power modules)	\$ 20,000	\$ 17,800	11%

ChargePoint Pricing



Order Code	Description	Retail	Fairfax County Price	Discount
CPF Series				
CPF50-L18	Single Port, Wall Mount, 50A, Type 1, Cable 18', Single Phase Charger	\$ 1,500	\$ 1,110	26%
CPF50-L23	Single Port, Wall Mount, 50A, Type 1, Cable 23', Single Phase Charger	\$ 1,550	\$ 1,147	26%
CPF50-L18-PEDMNT	Single Port, Pedestal Mount, 50A, Type 1, Cable 18', Single Phase Charger	\$ 2,500	\$ 1,850	26%
CPF50-L23-PEDMNT	Single Port, Pedestal Mount, 50A, Type 1, Cable 23', Single Phase Charger	\$ 3,130	\$ 2,316	26%
CPF50-L18-PEDMNT-CMK6	Single Port, Pedestal Mount, 50A, Type 1, Cable 18', Single Phase Charger with 6' Cable Management Kit	\$ 3,780	\$ 2,797	26%
CPF50-L23-PEDMNT-CMK8	Single Port, Pedestal Mount, 50A, Type 1, Cable 23', Single Phase Charger with 8' Cable Management Kit	\$ 2,630	\$ 1,946	26%
CPF50-L18 WALLMNT-CMK6	Single Port, Wall Mount, 50A, Type 1, Cable 18', Single Phase Charger	\$ 3,280	\$ 2,427	26%
CPF50-L23 WALLMNT-CMK8	Single Port, Wall Mount, 50A, Type 1, Cable 23', Single Phase Charger with 8' Cable Management Kit	\$ 3,775	\$ 2,794	26%
CPF50-L18-PEDMNT- Dual	Dual Port, Pedestal Mount, 50A, Type 1, Cable 18', Single Phase Charger. Unit ships in 5 separate boxes	\$ 3,875	\$ 2,868	26%
CPF50-L23-PEDMNT-Dual	Dual Port, Pedestal Mount, 50A, Type 1, Cable 23', Single Phase Charger. Unit ships in 5 separate boxes	\$ 4,655	\$ 3,445	26%
CPF50-L18-PEDMNT-CMK6-Dual	Dual Port, Pedestal Mount, 50A, Type 1, Cable 18', Single Phase Charger with 6' Cable Management Kit	\$ 5,355	\$ 3,963	26%
CPF50-L23-PEDMNT-CMK8-Dual	Dual Port, Pedestal Mount, 50A, Type 1, Cable 23', Single Phase Charger with 8' Cable Management Kit	\$ 5,355	\$ 3,963	26%
CPGW1-LTE	CPF Gateway (serves up to 9 CPF units within 150' & line-of-sight)	\$ -	\$ -	n/a
CPF50-PMGMT	CPF25 Power Management Kit.	\$ -	\$ -	n/a
CPF SOFTWARE (each PORT must have a software plan purchased) Add -REN-# for renewals				
CPCLD-POWER-1	Power Cloud Service Plan 1-year prepaid	\$ 200	\$ 194	3%
CPCLD-POWER-2	Power Cloud Service Plan 2-year prepaid	\$ 357	\$ 346	3%
CPCLD-POWER-3	Power Cloud Service Plan 3-year prepaid	\$ 504	\$ 489	3%
CPCLD-POWER-4	Power Cloud Service Plan 4-year prepaid	\$ 650	\$ 631	3%
CPCLD-POWER-5	Power Cloud Service Plan 5-year prepaid	\$ 789	\$ 765	3%
CT1000-CPCMF-CPFL00K	Fleet Card Kit includes 10 Fleet Cards for charging fleet vehicles	\$ 65	\$ 65	\$ -
CPF INSTALLATION & ACTIVATION				
NCC-ACTIVATION	Fleet activation by National Car Charging	\$ 100	\$ -	100%
CPF-ACTIVE	Fleet activation by ChargePoint - 1 or 2 stations	\$ 100	\$ 97	3%
CPF-INSTALLVALID	Customer works with their own contractor to perform the all construction to the point where the stations can be bolted down and connected. ChargePoint will engage one of their O&M Partners to install the station on the prepared site and validation of electrical capacity, transformers, panels, breakers, wiring, cellular coverage and that station installation meets all ChargePoint published requirements and local codes. A successful Site Validation is a prerequisite to purchase ChargePoint Assure. INSTALLVALID is priced per station. CPF50 Dual stations require one INSTALLVALID per dual station.	\$ 1,200	\$ 1,080	10%
CPF-SITEVALID	CPF-Site Validation, per group within 150' of each other (free with Assure5 or 50% off with ASSURE5-COMMIT	\$ 599	\$ 539	10%
CPF EXTENDED WARRANTIES (priced per PORT, 1-year parts only is standard, SITEVALID OR INSTALLVALID REQUIRED)				
CPF-ASSURE1	CPF Assure Parts & Labor Warranty incl. Monitoring 12-month	\$ 200	\$ 178	11%
CPF-ASSURE2	CPF Assure Parts & Labor Warranty incl. Monitoring 24-month	\$ 350	\$ 312	11%
CPF-ASSURE3	CPF Assure Parts & Labor Warranty incl. Monitoring 36-month	\$ 510	\$ 454	11%
CPF-ASSURE4	CPF Assure Parts & Labor Warranty incl. Monitoring 48-month	\$ 660	\$ 587	11%
CPF-ASSURE5	CPF Assure Parts & Labor Warranty incl. Monitoring 60-month	\$ 675	\$ 601	11%
CPF-ASSURE1-COMMIT	1yr Committed Assure Plan	\$ 205	\$ 182	11%
CPF-ASSURE2-COMMIT	2yr Committed Assure Plan	\$ 410	\$ 365	11%
CPF-ASSURE3-COMMIT	3yr Committed Assure Plan	\$ 525	\$ 467	11%
CPF-ASSURE4-COMMIT	4yr Committed Assure Plan	\$ 680	\$ 605	11%
CPF-ASSURE5-COMMIT	5yr Committed Assure Plan	\$ 700	\$ 623	11%
ACCESSORIES				
GREEN-SIGN1	EV Parking Sign (Green)	\$ 45	\$ 41	10%
RED-SIGN2	No Parking Except EV Sign (Red)	\$ 45	\$ 41	10%
BLUEEVSIGN	EV Parking Sign (Blue)	\$ 45	\$ 41	10%
SIGNPOST	Sign post	\$ 25	\$ 25	0%
TRANSACTION FEE	Payment processing fee charged by ChargePoint, if revenue is collected	10%	10%	n/a

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April 28, 2020

Mary Walker
Fairfax County
Department of Procurement and Material Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035

Ms. Walker,

Thanks for your letter from yesterday with your questions. I will answer each of them below in red:

1. The ChargePoint Master Services and Subscription Agreement references Cloud Plans offered through ChargePoint. Is a Cloud Plan included in your technical and cost proposal? If so, are there separate or additional terms that they County would be asked to agree to as part of a Cloud Plan? Every initial hardware purchase must be accompanied by a cloud plan and our BAFO pricing sheet includes this under the term "software." It is also often referred to as "networking plan." The 1, 3, and 5-year terms were included in Section 7 of the original Cost Proposal and also were included in our Best and Final proposal under the category of "Software" on each page accompanying each hardware type. We included multiple term options since some of our clients are limited to annual subscriptions whereas others like to take advantage of cost savings of longer terms.
2. Provide a definition of "material technical burden" as described in 9.3(b) of the ChargePoint Master Services and Subscription Agreement. We received this answer from the ChargePoint legal team... *"This would be an occurrence that overloaded our system in a way that we would not be able to support their system and would cause disruption to our system as a whole."* My interpretation is that this might include a "denial of service" terrorist attack, etc., that might make the operating system unavailable for a period of time. During our time as a ChargePoint partner over the last 9-years, this has never happened.
3. Section 4.1 of the ChargePoint Master Services and Subscription Agreement lists ChargePoint responsibilities for maintaining ChargePoint and ChargePoint applications. Explain if and how this differs from maintenance services described in the Assure Terms and Conditions of Service. In this instance ChargePoint is referring to the ChargePoint operating system, accessed through a web portal for both station owners and drivers, and the ChargePoint mobile application. The Assure program, in contrast, is a hardware warranty.
4. In the ChargePoint Assure Terms and Conditions of Service, eligibility for coverage under Assure requires use of a ChargePoint Operations and Maintenance Partner (O&M Partner) for installation. Verify that National Car Charging is an O&M Partner. National Car Charging is a "Self Validating Partner," which carries the same rights and responsibilities of an O&M Partner. There are so few Self Validating Partners in the

country, ChargePoint does not define us separately, however it is a synonymous classification. Libby Bitman from ChargePoint can confirm.

Thank you for the opportunity to clarify the above and I am always happy to answer any additional questions that might arise.

Regards,



Jim Burness
CEO

CHARGEPOINT®

MASTER SERVICES AND SUBSCRIPTION AGREEMENT

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

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

1. AGREEMENT.

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

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

1.2 EXHIBITS AND PRIVACY POLICY. This Agreement includes the CPI [Privacy Policy](https://www.chargepoint.com/en-ca/privacy/) dated May 14, 2018 (<https://www.chargepoint.com/en-ca/privacy/>) 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
- Exhibit 4: Privacy Policy

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 date the Subscriber proceeds with Provisioning 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 Chargepoint's Charging Stations or Cloud Plans.

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.

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. Once Subscriber has provided the necessary tax-exempt status documents to CPI, it is acknowledged that Subscriber is a political subdivision of the Commonwealth of Virginia, and is therefore not subject to taxation.

2.24 "Token(s)" means the serialized proof of purchase of a Cloud Plan that is used by CPI in connection with enabling Services and/or provisioning Charging Stations.

2.25 "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 so long as ChargePoint has provided written notice to Subscriber. 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. CPI must use commercially reasonable efforts to document and maintain adequate:

- 4.1.1** Network-based intrusion detection capabilities to ensure that attacks against the front-tier of servers will be detected.
- 4.1.2** Network-based intrusion detection mechanisms which monitor servers that transmit, store or process Sensitive PII.
- 4.1.3** First-level Firewalls (in front of the web servers) to protect the web servers from attack.
- 4.1.4** For the purposes of this section "Sensitive PII" shall consist of any information regarding Subscriber or a User, including: (a) personally identifying information that is explicitly defined as a regulated category of data under any data privacy or data protection laws applicable to CPI; (b) non-public information, such as a national identification number, passport number, social security number, or driver's license number; and (c) financial information, such as a policy number, credit card number and/or bank account number.

4.2 LIMITATIONS ON RESPONSIBILITY. CPI shall not be responsible for, and makes no representation or warranty with respect to the following: (i) specific location(s) or number of Charging Stations now, or in the future, owned, operated and/or installed by persons other than Subscriber, or the total number of Charging Stations that comprise ChargePoint; (ii) continuous availability of electrical service to any of Subscriber's Charging Stations; (iii) continuous availability of any wireless or cellular communications network or Internet service provider network necessary for the continued operation by CPI of ChargePoint; (iv) availability of or interruption of the ChargePoint Network attributable to unauthorized intrusions; and/or (v) charging stations that are not registered with and activated on the ChargePoint Network.

5. SUBSCRIBER'S RESPONSIBILITIES AND AGREEMENTS.

5.1 GENERAL.

(a) All use of ChargePoint and ChargePoint Services by Subscriber, its employees and agents and its grantees of Rights shall comply with this Agreement and all of the rules, limitations and policies of CPI set forth in the Documentation. All ChargePoint Services account details, passwords, keys, etc. are granted to Subscriber solely for Subscriber's own use (and the use of its grantees of Rights), and Subscriber shall keep all such items secure and confidential. Subscriber shall prevent, and may be liable to CPI for, any of Subscriber's 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 knowingly 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 Subscriber's fleet vehicles to access and use ChargePoint. Subscriber is responsible for activating the ChargePoint Card(s) 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) knowingly interfere with or disrupt the ChargePoint Services, servers, or networks connected to the ChargePoint Services, or knowingly disobey any requirements, procedures, policies, or regulations of networks connected to the ChargePoint Services unless the ChargePoint Services or any other CPI services are unavailable due to parking lot closures;

(c) knowingly restrict or knowingly inhibit any other user from using and enjoying the ChargePoint Services or any other CPI services unless the ChargePoint Services or any other CPI services are unavailable due to parking lot closures;

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

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

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

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

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

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

(j) access ChargePoint, any ChargePoint Application or the ChargePoint Services for the purpose of 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) knowingly upload, transmit or introduce any Malicious Code to ChargePoint or ChargePoint Services;

(m) Intentionally omitted; 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 the parties; (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 of Supplier's 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. Subscriber may copy, modify, alter, translate, amend or publicly display the Content in its reports to the Fairfax County Board of Supervisors. This section does not apply in the event that any content is subject to disclosure under Virginia law. This section does not apply in the event that any content is subject to disclosure under Virginia law.

(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. Subscriber shall pay all Subscription Fees within thirty (30) days of its receipt of CPI's invoice. All payments shall be made in U.S. Dollars by check, wire transfer, ACH payment

system or other means approved by CPI. 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. However, Subscriber shall not be subject to taxes should Subscriber provide the necessary tax-exempt status documents to CPI.

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.

6.3 PAYMENT AND RENEWAL THROUGH NATIONAL CAR CHARGING. All payments to CPI and Cloud Services renewals obligations described in this Agreement shall be assigned to CPI's Reseller, National Car Charging, for so long as National Car Charging remains a CPI Reseller or by termination of these obligations by either party as set forth in this Agreement. It is Subscriber's responsibility to ensure National Car Charging is providing payments and notices on Subscriber's behalf to CPI within the stated timeframes.

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. With Subscriber's prior written consent, CPI may utilize the Subscriber's Name to advertise that Subscriber is using the ChargePoint Services. With Subscriber's prior written consent, 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 reasonably 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 knowingly distorted or knowingly 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, AND TITLE. 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 OR LOSS OF DATA 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 TO SUBSCRIBER 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 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 to Subscriber 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. 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 CPI WILL NOT BE LIABLE TO THE SUBSCRIBER 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 the earlier to occur of (i) the date of Provisioning such new Charging Station, or (ii) one year from the date the Token(s) necessary for Provisioning such new Charging Station is made available to Subscriber or its installer. Upon expiration of the original term, this Agreement will renew automatically for successive one-year terms 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 may be subject to the payment of Subscription Fees for any lapse period. 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. Renewals of Cloud Plans will commence on the date of the expiration of the Subscription being renewed. All other Cloud Plans will commence on the date of activation of such Cloud Plans, but in no event more than one year after the date the Token(s) necessary for such activation is made available to Subscriber. Each Subscriber Cloud Plan shall continue for the applicable duration thereof, unless this Agreement is terminated earlier in accordance with its terms.

The obligation of Subscriber to pay compensation due under the Agreement or any other payment obligation under the Agreement is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. Subscriber's obligations to make payment during subsequent fiscal years are dependent upon the same action. If such an appropriation is not made for any fiscal year, the Agreement shall terminate effective at the end of the fiscal year for which funds were appropriated and Subscriber will not be obligated to make any payments under the Agreement beyond the amount appropriated for payment obligations under this Agreement. Subscriber will provide CPI with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the Subscriber's failure to provide such notice shall not extend the Agreement into a fiscal year in which sufficient funds have not been appropriated.

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.

(b) CPI may in its discretion suspend Subscriber's continuing access to the ChargePoint Services or any portion thereof if (A) Subscriber has breached any provision of this Agreement, or has acted in manner that indicates that Subscriber does not intend to, or is unable to, comply with any provision of this Agreement; (B) such suspension is required by law (for example, due to a change to the

law governing the provision of the ChargePoint Services); or (c) providing the ChargePoint Services to Subscriber could create a security risk or material technical burden as reasonably determined by CPI.

9.4 TERMINATION BY SUBSCRIBER.

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

9.5 REFUND OR PAYMENT UPON TERMINATION. Upon any termination of this Agreement for cause by Subscriber pursuant to Section 9.4(i) or by CPI pursuant to Section 9.3(a)(iii), CPI shall refund to Subscriber a pro-rata portion of any pre-paid Subscription Fees based upon the remaining Cloud Plan term. Upon any termination for any other reason or as otherwise stated in this Agreement, 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. GENERAL.

10.1 AMENDMENT OR MODIFICATION. CPI reserves the right to modify this Agreement from time to time. CPI will provide notice of each such modification to Subscriber. Subscriber's continued use of the ChargePoint Services following such notice will constitute an acceptance of the modified Agreement. Notwithstanding the above, CPI will provide advanced written notice to Subscriber of any material change to the Agreement. If the changes will have a material change on Subscriber, then CPI will either allow Subscriber to terminate this Agreement without penalty by providing 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.

10.2 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.

10.3 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.

10.4 VENUE. This Agreement is to be construed according to the laws of the State of Virginia. With respect to any matter relating to the intellectual property rights of CPI, such claim may be litigated the Fairfax County courts or the Eastern District of Virginia, Alexandria Division.

10.5 Intentionally Omitted.**10.6 Intentionally Omitted.****10.7 NOTICE REGARDING RIN DATA.**

10.8 The parties agree that if federal law is changed so that vehicle charging data may be used to generate an environmental credit called a Renewable Identification Number (RIN) that ownership and use of the RIN will be subject to a separate written agreement between the parties. CPI agrees to provide five (5) days written notice to Subscriber in the event said federal law is changed. Subscriber agrees to provide five (5) days written notice to CPI in the event said federal law is changed. **NOTICES.** Other than the notices required in Sections 11.5 and 11.6, any notice required or permitted by this Agreement shall be sent (a) if by CPI, via electronic mail to the address indicated by Subscriber in Subscriber's ChargePoint Services account; or (b) if by Subscriber, via electronic mail to mssa@chargepoint.com.

10.9 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.

10.10 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.

10.11 ASSIGNMENT. 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. Except as otherwise provided above, neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld). In the event of any purported assignment in breach of this Section, either Party shall be entitled, at its sole discretion, to terminate this Agreement upon written notice given to the other. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns Should it be determined that an assignee has been debarred, suspended, or otherwise ineligible to contract with Subscriber, Subscriber may terminate this Agreement without penalty.

10.12 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.

10.13 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.

10.14 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.

10.15 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 to Subscriber 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.

10.16 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.

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

10.18 MANDATORY TERMS AS GOVERNED BY THE FAIRFAX COUNTY PURCHASING RESOLUTION.

Audit of Records. The parties agree that the County must have reasonable access to and the right to examine any books, documents, papers and records of ChargePoint involving transactions related to the Agreement or compliance with any clauses thereunder, for a period of three (3) years after final payment. The ChargePoint shall include these same provisions in all related subcontracts.

Authorization to Conduct Business in the Commonwealth. ChargePoint is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership and shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law.

Non-discrimination. During the performance of this Agreement, ChargePoint agrees as follows:

1. ChargePoint will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational

qualification reasonably necessary to the normal operation of ChargePoint. ChargePoint agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.

2. ChargePoint, in all solicitations or advertisements for employees placed by or on behalf of ChargePoint, will state that ChargePoint is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this provision.
4. ChargePoint will include the provisions of sub-paragraphs (1), (2) and (3) above in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

Drug-Free Workplace. For the purposes of this provision, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to Chargepoint in accordance with the Fairfax County Purchasing Resolution, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Agreement. During the performance of this Agreement, ChargePoint agrees as follows:

1. ChargePoint shall provide a drug-free workplace for ChargePoint's employees;
2. ChargePoint shall post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in ChargePoint's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
3. ChargePoint shall state in all solicitations or advertisements for employees placed by or on behalf of ChargePoint that ChargePoint maintains a drug-free workplace; and
4. ChargePoint shall include the provisions of the foregoing clauses in every subcontract of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

Immigration Reform and Control Act Compliance. ChargePoint does not, and shall not during the performance of the Agreement for goods and services in the Commonwealth of Virginia, knowingly employ an unauthorized alien as defined in the Immigration Reform and Control Act of 1986.

******Signature Page Follows******

Subscriber: Fairfax County

Name: Cathy A Muse
Cathy A. Muse

Title: Fairfax County Purchasing Agent

Date: 10/30/20

Address:
12000 Government Center Pkwy
Fairfax VA 22035

DocuSigned by:

Rex S. Jackson

41105F986370476...

ChargePoint, Inc.

Name: Rex S. Jackson

Title: Chief Financial Officer

Date: 10/13/2020

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 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 quarterly, provided that the amount due to Subscriber hereunder is at least two hundred and fifty U.S. Dollars (\$250) (or, if Subscriber is located in Canada, two hundred and fifty Canadian dollars) or more. 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 ACH. In order to facilitate such payments, Subscriber agrees to provide to CPI, or its payment provider, Subscriber's bank information to enable electronic remittance of the Net Session Fees. If the Subscriber requests payment in a manner other than ACH (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 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) knowingly 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) knowingly 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. Subscriber may 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 to Subscriber.

CHARGEPOINT® MASTER SERVICES AND SUBSCRIPTION AGREEMENT
Exhibit 4 - Privacy Policy

Privacy Policy

Effective Date: May 14, 2018

ChargePoint® has created this privacy policy to demonstrate its commitment to the privacy of its customers and users. This privacy policy applies to this website, including the portion of the website accessed by ChargePoint customers and users, any pre-ordering or purchasing of ChargePoint's products through the website (collectively, the "Web Site") and the service offered by ChargePoint, including through use of the ChargePoint Smart Cards or the ChargePoint charging stations (collectively, the "Service"). By using this Web Site or the Service or by transmitting information to us, whether through the Web Site, email, mobile application or otherwise, you agree to this privacy policy.

1. Changes to Privacy Policy

We may change and update this privacy policy from time to time, so you should check back periodically for any modifications on our website. For any material changes affecting your personally identifiable information, we will post a more prominent notice to the Web Site of the change and we may also send to you a notification by electronic message if we have an electronic email address for you.

The date this privacy policy was last changed is noted at the bottom of this privacy policy. Please review it to see when the last changes were made. If you have any questions about what changes have been made, please do not hesitate to contact us through the contact information provide in Section 9 of this Privacy Policy.

We will give approximately thirty (30) days prior notice before the changes to the privacy policy take effect. If you disagree with any change, you must stop using the Service. Otherwise, we will consider your continued use to be acceptance of the change.

We will give approximately thirty (30) days prior notice before the changes to the privacy policy take effect.

2. Information Collection and Usage

ChargePoint collects different kinds of information through the Web Site and the Service, and uses this information in different ways.

Non-Personally Identifiable Information. When you visit the Web Site, we collect certain information (such as your IP address, type of Internet browser and operating system you use, pages viewed, and the websites that you visited before you came to our Web Site, in order to understand how users navigate through the Web Site and to improve your experience using the Web Site. This information does not directly identify any individuals and we do not use this information to identify any individuals. We may continue to collect such information, including the websites that you visit after using our Web Site, for the same purposes after you have visited our Web Site. If you access the Web Site on your phone, or other mobile device, we may also collect non-personally identifiable information.

Geo-tracking. We utilize geo-tracking in our mobile application, website and in our ChargePoint applications for ChargePoint's marketing efforts, customer service, customer experience and in order to provide and improve our Service.

Aggregated Information. ChargePoint may also analyze and compile information on patterns of usage of the Service. This information is collected in aggregate form, without identifying any user individually. We may use this information to improve the Service and provide this information to third parties for marketing purposes or as otherwise set out below.

CHARGEPOINT® MASTER SERVICES AND SUBSCRIPTION AGREEMENT

Exhibit 4 - Privacy Policy

Cookies. Like most websites, we also use cookies to provide users an efficient experience in using the Web Site. A cookie is a small data file that certain web sites write to your hard drive when you visit them. A cookie file can contain information such as a user ID that the site uses to track the pages you have visited, but the only personal information a cookie can contain is information you supply yourself. A cookie cannot read data off your hard disk or read cookie files created by other sites. Some parts of the Web Site use cookies to track user traffic patterns. ChargePoint does this in order to determine the usefulness of the Web Site information to our users and to see how effective our navigational structure is in helping users reach that information. The information collected is anonymized and aggregated; ChargePoint does not correlate this information with data about individual users, nor does it share this information or sell it to any third party.

Personally Identifiable Information. The type of personal information we collect and how we use and disclose it depends on the purpose of the interaction between the individual and ChargePoint.

For instance, if you sign up for the Service, use the Service, or send email or other communication to ChargePoint, we may retain those communications in order to process your inquiries, respond to your requests and improve our Web Site and Service. When you register for the Service, we may request certain information from you (such as your name, title, e-mail address, telephone number, credit card or other payment information, etc.). When using the Service, you may be asked for additional information to help identify you, provide usage information, or provide information on your location. All of this information used to specifically identify you is called "User Information" in this privacy policy.

Purchase and Login Information. If you pre-order or purchase ChargePoint products from our Web Site or in connection with the Service, we may request that you provide your name, email address, billing and shipping address, credit card information or other payment information, and any other information necessary to complete the transaction. If you create an account to pre-order or purchase ChargePoint products or Service, your name, billing and shipping address and the last four digits of your credit card information may be stored by ChargePoint. We do not collect or store: (i) when paying by credit card, your credit card number (other than the last 4 digits), expiration date, or CVV2 or other card-not-present authentication codes; and (ii) when paying by a third party payments processor, any information provided to PayPal other than your name, email address, and referential transaction information. Our third party processing service providers (which includes Cybersource), will collect this information, even as a guest user, when an order is placed.

If you create an account for a pre-order or purchase and elect to have payment card information saved, our third party processing service providers will store your payment information. The information collected by each of our processing service providers (including but not limited to Braintree, Cybersource, and USA ePay) is governed by each such company's applicable privacy policy, which may be revised from time to time. We ask that you review their privacy policies prior to submitting any personal information to these processing service providers.

When you use our Service, we collect certain demographic information (such as your ChargePoint charging station location and charging duration) in order to understand usage patterns and to improve your experience using our Service.

We use the User Information in order to process the application, to provide the Service to customers and users, to ensure we are able to provide responsive and relevant ongoing customer service, and to otherwise communicate with you as a customer or user regarding the Service. Please keep in mind that we reserve the right to send you certain communications relating to your use of the Service, such as service announcements, notices about new features or information on the Service, administrative messages, and communications regarding your account.

Advertising. We may also use the User Information to provide advertisements from ChargePoint or its partners to you, but you will have the opportunity to opt-out of these communications. From time to time, you may receive offers through ChargePoint from third party businesses. These offers may require you to provide information to them if you choose to accept their offers. You should remember that these offers

CHARGEPOINT® MASTER SERVICES AND SUBSCRIPTION AGREEMENT

Exhibit 4 - Privacy Policy

are made by the businesses themselves and not by ChargePoint. You should always be sure to read the terms of service and privacy policies of these businesses before providing any information to them so that you can understand their intended uses for your information. ChargePoint may receive information from these businesses regarding your response to their offers, so that ChargePoint may better tailor your user experience.

From time to time, we may also collect information via online surveys or polls. Participation in these surveys or polls is entirely voluntary, and you may decline to participate.

Children's Privacy. The Web Site and the Service are intended for adult users, and ChargePoint does not knowingly and deliberately collect personal information from anyone under 13 years of age.

Phone Calls. For the purpose maintaining quality service, telephone calls to our customer service lines may be recorded. If your call is subject to a quality assurance program, you will be so advised prior to speaking with a representative.

3. Information Sharing

The circumstances in which ChargePoint may share User Information with our third-party service providers are reasonably connected with the purposes of the collection, such as providing the Services or Products to users. As well, we may share User Information in the following circumstances:

- a. to a Program Partner (as defined herein) (but only if you are participating in an offer or program offered by ChargePoint in conjunction with one of its partners (each, a "Program Partner"), in order for ChargePoint and the Program Partner to provide the Service, confirm that you are eligible to participate in such offer or program (e.g., by sharing and verifying the VIN of your vehicle), and for the Program Partner to understand your usage patterns and to improve its offer or program with ChargePoint or other offers, programs or services offered by the Program Partner;
- b. in connection with the proposed or actual financing, insuring, sale, securitization, assignment or other disposal of all or part of our business or assets (including accounts) for the purposes of evaluating and/or performing the proposed transaction. Our successors and assigns may collect, use and disclose your personal information for substantially the same purposes as those set out in this privacy policy;
- c. to our distributors, ChargePoint charging station owners, contractors, consultants, and service providers for the purposes of providing services to us (such recipients are prohibited from using User Information for any other purpose);
- d. for bill collection;
- e. for purposes of providing customer service to the extent third parties are involved in the provision of customer service;
- f. to resolve customer disputes or inquiries;
- g. in the unlikely event of ChargePoint's insolvency, bankruptcy or receivership in which your personal information would be transferred as one of ChargePoint's business assets;
- h. where we are legally obligated to disclose information to the government or other third parties; and
- i. where we are otherwise legally permitted to do so, such as in the course of employing reasonable and legal methods to enforce your rights or to investigate suspicion of unlawful activities. We may release certain personal information when we believe that such release is reasonably necessary to protect the rights, property and safety of ourselves and others.

We may aggregate information and data about you and your use of the Web Site and Service and provide such aggregated information and data to: (i) advertisers, for marketing or promotional purposes; and/or (ii) to ChargePoint charging station partners, to allow them to better understand the usage patterns of ChargePoint customers and users using their charging stations. In these circumstances, we do not disclose information that could be used to personally identify you.

CHARGEPOINT® MASTER SERVICES AND SUBSCRIPTION AGREEMENT

Exhibit 4 - Privacy Policy

Access by ChargePoint, its distributors, ChargePoint charging station owners, or authorized third parties, or any of such parties respective employees, contractors, consultants, representatives and agents to any personal information you provide is limited to only information necessary to provide the business service offered and to allow them to perform their duties and to enhance your experience with ChargePoint.

4. Security Measures

To help protect the privacy of the data you transmit through the Web Site or Service, ChargePoint uses industry-standard; secure server software that encrypts the information you input before it is sent to us. In addition, ChargePoint uses standard industry practice to protect User Information against unauthorized access. However, you should keep in mind that the Web Site and Service are run on software, hardware and networks, any component of which may from time to time require maintenance or experience problems or breaches of security beyond our control and for which we are not responsible.

5. Links to Third-Party Websites

This Web Site may contain links to third party websites. Access to any other Internet site linked to this Web Site is at the user's own risk and ChargePoint is not responsible for the accuracy or reliability of any information, data, opinions, advice or statements made on these websites. ChargePoint provides these links merely as a convenience, and the inclusion of such links does not imply an endorsement. Please be aware that this privacy policy will no longer apply once you leave our Web Site and that we are not responsible for the privacy practices of third-party websites. We therefore suggest that you closely examine the respective privacy policies of third-party websites to learn how they collect, use and disclose your personal information.

6. Accessing Your User Information

We will try to update your User Information as we become aware of changes. However, we will be able to serve you best if you update your User Information or notify us of any changes to (or errors in) your User Information. You can update your User Information through the Web Site, or if you are unable to access that information for any reason, you may submit a written request for changes to Customer Service at the contact information listed below. In order for us to serve you best, please provide your name, phone number, mailing address, and e-mail address when contacting us.

7. Consent to Activities Outside of Canada and Mexico

ChargePoint's servers are located in the U.S., and ChargePoint performs activities outside of Canada. As well, ChargePoint performs activities outside of Canada and Mexico through third party service providers. As such, your personal information may be processed, used, stored or accessed in the United States. You acknowledge and agree that, as a result, your personal information may be processed, used, stored or accessed in other countries and may be subject to the laws of those countries. For example, information may be disclosed in response to valid demands or requests from government authorities, courts, or law enforcement in other countries.

8. Governing Law

This privacy policy and all related matters are governed solely by the laws of Ontario and the applicable federal laws of Canada for all Canadian users. You also consent to the adjudication of any disputes arising in connection with our Web Site or Service in the Province of Ontario.

9. Contact Us

If you have any questions about this privacy policy or our personal information handling practices, please feel free to email us at support@chargepoint.com or write to us at: ChargePoint, Attn: Customer Service, 254 East Hacienda Avenue, Campbell, CA 95008-6901.



CHARGEPOINT ASSURE

TERMS AND CONDITIONS OF SERVICE

Welcome to ChargePoint Assure. ChargePoint Assure is a full service maintenance and support program designed specifically for ChargePoint customers ("Fairfax County" or "County").

1. **WHAT IS COVERED:** With ChargePoint Assure, ChargePoint agrees to do each of the following:
 - a. Ensure that all parts are provided and labor is performed, on-site if necessary, to correct any defect in the materials or workmanship of electric vehicle charging stations purchased from ChargePoint, Inc., or its representatives ("Charging Stations") in a prompt and professional manner.
 - b. Provide remote, automated monitoring of your Charging Stations.
 - c. Perform triage with respect to any Charging Station that may be defective.
 - d. Coordinate all repairs necessary to have your Charging Station back up and running.
 - e. Ensure that you are provided response no later than one business day from the date ChargePoint becomes aware of an issue.
 - f. Begin onsite repairs within one business day from the delivery of any parts required to fix your Charging Station.
 - g. ChargePoint will provide software moves, adds and changes at no additional cost
 - h. ChargePoint guarantees a 98% annual station uptime with a prorated refund of up to the annual station Assure maintenance fee for outages caused by station hardware or software failures in excess of 2% annually
 - i. ChargePoint will provide standard monthly summary and quarterly detailed station usage and performance metrics.
 - j. ChargePoint will cover the labor portion of non-cosmetic station repairs caused by vandalism, auto accidents or excessive wear and tear.
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 external 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.
3. **CUSTOMER RESPONSIBILITIES:** In order to perform its obligations under ChargePoint 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.
4. **WHO IS ELIGIBLE FOR CHARGEPOINT ASSURE?:** ChargePoint Assure is only available to purchasers of Charging Stations who either: 1) use a ChargePoint Operations and Maintenance Partner ("O&M Partner") to install their Charging Stations or 2) successfully complete a site validation 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:** 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. The purpose of the site validation is to ensure that your Charging Stations were installed correctly, in accordance with ChargePoint's recommended specifications and operational requirements. Site validations require the payment of ChargePoint's then current fee, charged on a "per site" basis. For these purposes, a "site" is defined as any group of Charging Stations whose circuits are terminated at the same powerpanel.
5. **EXCLUSIONS FROM COVERAGE:** ChargePoint's obligations under ChargePoint Assure shall not apply to defects or service repairs resulting from the following:
- Cosmetic damage such as scratches and dents.
 - Normal aging.
 - Except as provided in 1(j) above, abuse, vandalism, damage or other problems caused by accidents or 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.
 - 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.
 - Use of the Charging Station with software, interfacing, parts or supplies not supplied by ChargePoint.
 - Damage as a result of extreme power surge, extreme electromagnetic field or any other acts of nature.
- 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 4 of these Terms and Conditions.
6. **CONTACT INFORMATION:** If at any time during the term of your coverage of ChargePoint Assure you believe you have a defective Charging Station, contact Customer Service at 1-877-850-4562 or support@chargepoint.com.
7. **SERVICE TERM:** If you comply with the installation requirements described in Section 4, you will receive, at no-cost, ChargePoint Assure coverage that will replace your standard ChargePoint Warranty and will last for the remainder of the standard Warranty period, if any. You may purchase extensions to your ChargePoint Assure coverage. The extension period will begin on the date your standard Exchange Warranty expires or, if applicable, the date that any extensions to ChargePoint Assure coverage that you have previously purchased expire. Please contact your ChargePoint sales representative or authorized ChargePoint reseller for more details.
8. **PAYMENTS:** ChargePoint will send you an invoice for any extended ChargePoint Assure coverage that you order. Payment is due within thirty (30) days of the invoice date. If you have purchased extended ChargePoint Assure 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 and may be made by check, wire transfer, ACH payment system or other means approved by ChargePoint. Customer may not offset any amounts due to ChargePoint hereunder against amounts due to Customer 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. 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 ChargePoint Assure coverage until ChargePoint has received payment in full. All payment obligations under the Agreement are subject to appropriations by the Fairfax County Board of Supervisors for this purpose. In the event of non-appropriation of funds for the items under this Agreement, the County may terminate, in whole or in part, the contract or any order, for those services for which funds have not been appropriated. Written notice will be provided to ChargePoint as soon as possible after legislative action is completed. There shall be no time limit for termination due to termination for lack of appropriations.
9. **TRANSFERS:** Your ChargePoint Assure coverage applies only to the Charging Stations and installation site for which it was purchased. If you sell or otherwise transfer your Charging Stations, your ChargePoint Assure coverage may not be transferred without ChargePoint's prior written consent.



10. **REPLACEMENT PARTS AND STATIONS:** Replacement parts or charging stations provided by ChargePoint under ChargePoint Assure 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. All replaced parts and Charging Stations, whether under warranty or not, become the property of ChargePoint. Any replacement parts or Charging Stations so furnished will be covered by ChargePoint Assure for the remainder of your ChargePoint Assure coverage or ninety (90) days from the date of delivery of such replacement parts or Charging Stations, whichever is later.
11. **LIMITS ON LIABILITY:** This section limits ChargePoint's liability under ChargePoint Assure. Please read it carefully.
 - a. CHARGEPOINT IS NOT LIABLE TO YOU 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, 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 CHARGEPOINT 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.
12. **VENUE:** These ChargePoint Assure Terms and Conditions of Service are to be construed according to the laws of the State of Virginia. Any claim related to this agreement will be heard in the Fairfax County courts or the Eastern District of Virginia, Alexandria Division.
13. **AMENDMENT OR MODIFICATION:** These ChargePoint Assure Terms and Conditions of Service may not be amended or modified except pursuant to a writing executed by each of the parties.
14. **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.
15. **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.
16. **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.
17. **ASSIGNMENT.** ChargePoint 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 ChargePoint, 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) ChargePoint's successor pursuant to a merger, reorganization, consolidation or sale, or (iii) an entity that acquires all or substantially all of that portion of ChargePoint's assets or business for which your Charging Services were acquired or are being used. Except as



otherwise provided above, neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld). In the event of any purported assignment in breach of this Section, either Party shall be entitled, at its sole discretion, to terminate this Agreement upon written notice given to the other. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns Should it be determined that an assignee has been debarred, suspended, or otherwise ineligible to contract with you, you may terminate this Agreement without penalty.

18. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties with respect to the ChargePoint's provision of the ChargePoint Assure product and supersedes and cancels all previous and contemporaneous agreements, negotiations, commitments, understandings, representations and writings. To the extent of any conflict or inconsistency between these ChargePoint Assure Terms and Conditions of Service and any purchase order, the Agreement shall prevail.
19. **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.
20. **PAYMENT AND RENEWAL THROUGH NATIONAL CAR CHARGING.** All payments to ChargePoint and Assure renewals obligations described in this Agreement shall be assigned to ChargePoint's Reseller, National Car Charging, for so long as National Car Charging remains a ChargePoint Reseller or by termination of these obligations by either party as set forth in this Agreement. It is your responsibility to ensure National Car Charging is providing payments and notices on your behalf to ChargePoint within the stated timeframes.

Customer: Fairfax County

Name:

Cathy A. Muse
Cathy A. Muse

Title: Fairfax County Purchasing Agent

Date:

10/30/20

Address:

12000 Government Center Pkwy
Fairfax VA 22035

DocuSigned by:

Rex S. Jackson
41105F986370476
ChargePoint, Inc.

Name: Rex S. Jackson

Title: Chief Financial Officer

Date: 10/13/20

Address:

254 E. Hacienda Ave
Campbell, CA 95008