

cityofnovi.org

# CITY of NOVI CITY COUNCIL

**Agenda Item 4**  
**March 7, 2011**

**SUBJECT:** Approval to award a contract for installation of two (2) electric car chargers acquired under a grant not to exceed \$14,250.00 and authorization of a contract with Coulomb Technologies for operation and billing for use of the chargers subject to final approval of agreements by City Attorney and Community Development Director and signature by the Mayor on behalf of the City of Novi.

**SUBMITTING DEPARTMENT:** Community Development Department, Building Division *CVS*

**CITY MANAGER APPROVAL:** *[Signature]*

<b>EXPENDITURE REQUIRED</b>	<b>\$ 14,250.00 est.</b>
<b>AMOUNT BUDGETED</b>	<b>\$ 0.00</b>
<b>APPROPRIATION REQUIRED</b>	<b>\$ 14,250.00</b>
<b>LINE ITEM NUMBER</b>	<b>101-371.00-805.090</b>

**BACKGROUND INFORMATION:** In response to the growing availability of electric and plug in hybrid vehicles, the City secured a grant for two (2) charging stations. The grant provides the physical charging station equipment while the City as the recipient is responsible for installation and future maintenance of the stations.

Consumers would use either a credit card or ChargePoint card to initiate the each charging session. Charges would be set by resolution of City Council and would include a \$0.50 fee to initiate each charging session as well as 7.5% session fee. The balance of funds collected would be forwarded to the City of Novi to offset energy costs. Once the contract is approved, Coulomb Technologies will assist by recommending fees based on City utility costs, but the actual fees will be as determined by City Council.

Locations within the Library and Police Station parking lots were chosen based on likely accessibility and proximity to the necessary electrical service. Initial bidding by the installer recommended by Coulomb Technologies for installation of the chargers was deemed to be excessive. Other bids were secured and these provide the basis for the request. The written permission required to use the City of Novi's own contractor for the installation is being secured.

The proposed contract with Coulomb Technologies is for two (2) years. The cost of the contract is waived until December 2013. After December 2013, should the City desire to continue to bill users for charging sessions, continuation of the contract would be approximately \$150.00 per station per year. We are currently awaiting approval of revised contract language from Coulomb Technologies as specified in the attached letter from the City Attorney.

**RECOMMENDED ACTION:** Approval to award a contract for installation of two (2) electric car chargers acquired under a grant not to exceed \$14,250.00 and authorization of a contract with Coulomb Technologies for operation and billing for use of the chargers subject to final approval of agreements by City Attorney and Community Development Director and signature by the Mayor on behalf of the City of Novi.

	1	2	Y	N
<b>Mayor Landry</b>				
<b>Mayor Pro Tem Gatt</b>				
<b>Council Member Fischer</b>				
<b>Council Member Margolis</b>				

	1	2	Y	N
<b>Council Member Mutch</b>				
<b>Council Member Staudt</b>				
<b>Council Member Wrobel</b>				

March 2, 2011

30903 Northwestern Highway  
P.O. Box 3040  
Farmington Hills, MI 48333-3040  
Tel: 248-851-9500  
Fax: 248-851-2158  
www.secrestwardle.com

Thomas R. Schultz  
Direct: 248-539-2847  
tschultz@secrestwardle.com

Charles Boulard,  
Community Development Director  
City of Novi  
45175 W. Ten Mile Road  
Novi, MI 48375

Re: ***Charge Point America Agreements***  
Our File No. 55142 NOV

Dear Mr. Boulard:

At your request, our office has reviewed ***two separate agreements*** relating to the electric vehicle charging stations proposed for the police and library parking areas. Approval and signature of both agreements is required in order to complete the installation of the two charging stations and to make them operational.

As a general overview, the project involves the City being provided, free of charge, two vehicle charging stations at zero cost for the equipment. The City would be required to pay for the installation of the units—i.e., bringing energy/electricity to them. The City would then separately enter into a subscription agreement that would govern actual use of the stations by people with electric vehicles.

Generally stated, the individual user would have a card that would be read at the station. The City would set the cost of the energy on the basis of the cost for electricity to the City (the Network Operator would help the City set that fee). The Network Operator makes money primarily through session authorizing/processing fees, which are a surcharge of \$0.50 and 7.5%, respectively. The Network Operator also typically receives an annual subscription fee of \$148 per charging station; that fee is being waived for the first two years of the contract, through December 31, 2013. So, the out-of-pocket cost for the City for the first two years is essentially the cost of installation and the cost of the electricity.

The ***first agreement*** is between the City and Coulomb Technologies, Inc. (CTI). This document confirms that the two charging stations are being provided at no cost, but that the City is obligated to pay for the installation. The City has to use either CTI's contractor or a contractor approved by CTI.

Mr. Charles Boulard

March 2, 2011

Page 2

The agreement runs until December 31, 2013. There are frankly no warranties with regard to the equipment. The document confirms that the subscription fee is being waived through December 31, 2013. The City is obligated to leave the stations in place until January 1, 2014. We note that the law applicable to this agreement is the law of the State of California, which CTI will probably be reluctant to change. The "state and federal courts of California shall have exclusive jurisdiction over any claim arising under this agreement." *We recommend that this language be removed from the agreement.*

The *second agreement* is also between the City and CTI. It is the Master Services Subscription Agreement. This agreement relates to the use of the charging station. CTI, as the Network Operator, makes its services available 24 hours, 7 days a week, and 365 days a year, except for planned downtime. Basically, the Network Operator's responsibilities are to provide all services necessary to allow the use of the charging stations by members of the public. There is an express disclaimer of warranty for pretty much everything, including even a warranty as to fitness as to the particular purpose for which the City would be entering into the agreement. This is not unusual.

The City's responsibilities essentially would be to maintain the charging stations and make them available to members of the public. The City would set the prices for the use. The fees to be paid for the charging stations and the Network Operator's services include a subscription fee (Section 4.1 of agreement), which the earlier referenced agreement provides will be waived through December 31, 2013 (normally, we are told, \$148 per year), as well as any taxes that may be assessed (Section 4.6). We have not been asked to determine whether any taxes would apply.

The users of the system will pay session authorization fees and session transaction fees as set forth in Section 5 of the agreement. These are charges that would be assessed against the user through a card system. The Network Operator would remit the amount of the fees payable to the City within 30 days after the end of each month.

Under Section 7.1, the Network Operator will defend and indemnify the City with regard to any claims for infringement or misappropriation of intellectual property rights. Under Section 7.2, the City would indemnify the network operator as to any third party claims brought as a result of the City's negligence or willful misconduct or alleging that the City's use fringes or misappropriates the intellectual property rights of any third party. Under Section 7.3, the Network Operator's liability is limited to the amount of the subscription fees (here, zero dollars). In addition, under Section 7.4, consequential and related damages are expressly excluded from any remedy against the Network Operator.

Mr. Charles Boulard  
March 2, 2011  
Page 3

These are standard provisions, but are very unfavorable. Section 7.3 and 7.4 are particularly notable to the extent that they represent a limitation of liability on the part of the Network Operator, ***but not the City***. We suggest that either Sections 7.3 and 7.4 both be removed, or, alternatively that Section 7.2 (the City indemnification) be removed in its ***entirety***.

The term of the agreement (Paragraph 8) is consistent with the initial agreement—December 31, 2013. The agreement can be terminated by the Network Operator for material violation by the City that is not cured after notice, among other reasons. The agreement can be terminated by the City for cause based upon material breach or in the event the network operator becomes the subject of bankruptcy proceedings. The agreement can also be terminated by the City upon voluntary deactivation and removal from registration of the charging stations.

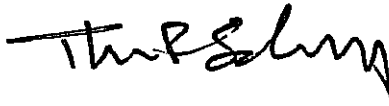
As with the first agreement, applicable law under this agreement is California law, and also the state and federal courts of California are given jurisdiction over claims under the agreement. ***We suggest that the latter provision (jurisdiction) be removed from the agreement.***

Finally, given the tie in the agreement to the American Recovery and Reinvestment Act (ARRA), ***a provision should be inserted requiring CTI to comply with all applicable provisions of that act***, and appropriate remedies made available to the City if it does not.

With the comments indicated in bold above, we see no legal impediment to the City entering into the agreement.

If you have any questions, please do not hesitate to call.

Very truly yours,



Thomas R. Schultz

TRS/jec

cc: Clay Pearson, City Manager  
Maryanne Cornelius, City Clerk



ChargePoint® Networked Charging Stations, by Coulomb Technologies, offer municipalities, corporations, fleets, and utilities, high-reliability, plug-in electric vehicle charging that drivers prefer. The easy-to-use stations provide multiple power options, integrating aesthetics and ergonomics with sturdy construction—ideal for residential, commercial and outdoor public applications.

The CT2100 family of charging stations are dual output stations designed for public outdoor applications for the North American marketplace. The 7.2 kW output delivers Level II (208/240 V @ 30 A) charging via a standard SAE J1772™ connector and fixed 18-foot cable. The 2 kW output delivers Level I (120 V @ 16 A) charging via a standard NEMA 5-20 receptacle protected behind a locking door. Both outputs can deliver energy simultaneously.

To eliminate energy theft and to enhance safety, drivers access and energize the station with a ChargePass™ card or contactless credit card. The station's highly visible display guides drivers with instructive messages and can be used to display custom advertisement or greetings for drivers.

#### ChargePoint Network Enabled

Includes 24/7 driver assistance, station location, station availability, trip mapping, driver billing, and driver notification services. Compatible with remote management, billing, maintenance and other on-demand software applications.

#### Smart Card Reader

Integrated standards-based RFID reader that accepts ChargePass cards or contactless credit cards. Provides optional driver billing and custom access control, preventing electricity theft and enhancing safety.

#### Intelligent Power Control

Algorithms ensure power is delivered only when a driver is authorized and the EV connector is properly inserted.

#### Locking Door

Protects power insertion point and retains the EV charging cord to prevent theft during charging.

#### Vacuum Florescent Display with Multiple Language Support

Bright, easy-to-read display used for instructive, advertisement and greeting messages in multiple languages.

#### Integrated Fault Detection

- **Ground Fault Detection:** Integrated ground-fault detection circuitry with auto retry and driver notification.
- **Over-Current Detection:** Disconnects power to prevent nuisance breaker trips at service panel. Auto retry and driver notification.
- **Plug-Out Detection:** Algorithm disengages power and notifies the driver when a plug is removed.
- **Charging Complete Detection:** Algorithm detects completion of EV charge and notifies the driver.

#### Over-the-Air Station Upgrade

Upgrade station firmware remotely over-the-air to keep charging station current with future and evolving EV charging needs.

#### Utility Grade Energy Meter

Integrated power metering circuitry provides accurate bi-directional energy measurement.

#### Remote Diagnostics and Control

Real-time remote alarm monitoring and control minimizes the need for on-site maintenance.

#### Network Interface

Wireless mesh and cellular network interfaces allow seamless integration with back office business systems, utility Advanced Metering Infrastructures (AMIs), or home area networks.

#### Smart Grid Compatible

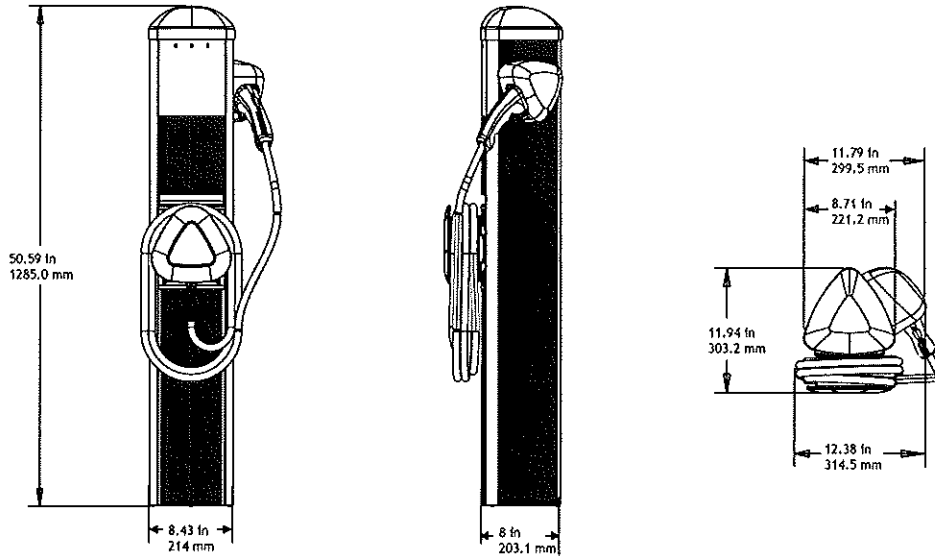
Utility grade meter and smart-grid interfaces enable demand response and Time-Of-Use (TOU) pricing.



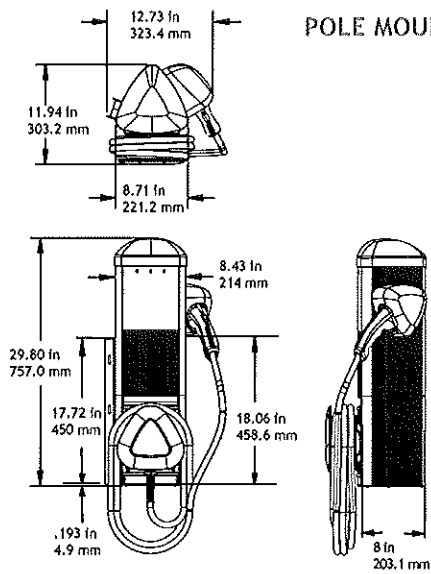
Coulomb Technologies, Inc.  
1692 Dell Ave.  
Campbell, CA 95008-6901 USA  
US toll free: +1-877-370-3802  
www.coulombtech.com  
www.mychargepoint.net

### CT2100 FAMILY

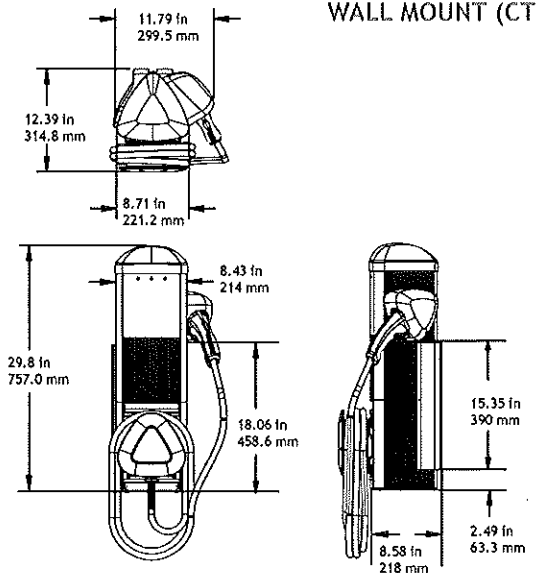
#### BOLLARD (CT2101)



#### POLE MOUNT (CT2102)



#### WALL MOUNT (CT2103)

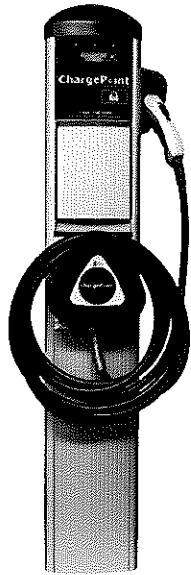


	Level I	Level II
<b>Electrical Input</b>		
Input Power	2.0 kW	7.2 kW
Input Voltage	120 VAC	208/240 VAC
Input Current	16 A	30 A
Input Power Connections	Line, Neutral, Earth	Line 1, Line 2, Earth
Required Service Panel Breaker	20 A single pole breaker (non-GFCI type) on dedicated circuit	40 A double pole breaker (non-GFCI type) on dedicated circuit
Standby Power	5 W typical	
<b>Electrical Output</b>		
Output Charging Power	2.0 kW	7.2 kW
Output Voltage	120 VAC	208/240 VAC
Output Current	16 A	30 A
Output Charging Connector	NEMA 5-20 receptacle	SAE J1772™ EV connector on 18' (5.48 m) cable
<b>Functional Interfaces</b>		
Card Reader	ISO 15693, 14443	
Ground Fault Detection	5 mA CCID with auto retry (15 minute delay, 3 tries)	20 mA CCID with auto retry (15 minute delay, 3 tries)
Plug-Out Detection	Programmable arm and trip current thresholds	Power terminated per SAE J1772™ specification
Power Measurement	2% @ 15 minute intervals	
Local Area Network	2.4 GHz 802.15.4 dynamic mesh network	
Wide Area Network	Commercial CDMA or GPRS cellular data network	
<b>Safety and Operational Ratings</b>		
Safety Compliance	UL Listed for USA and cUL certified for Canada; Complies with UL 2594, UL 2231-1, UL 2231-2, UL 1998, UL 991, NEC Article 625	
Surge Protection	6 kV @ 3,000 A. In geographic areas subject to frequent thunderstorms, supplemental surge protection is recommended.	
EMC Compliance	FCC Part 15 Class A	
Operating Temperature	-22° F to 122° F (-30° C to +50° C)	
Operating Humidity	95% non-condensing	
Enclosure	NEMA 3R	
Terminal Block Temperature Rating	212° F (100° C)	
Maximum Charging Stations per 802.15.4 Radio Group	100. Each station must be within 150 feet "line of sight" of at least one other station	
Approximate Shipping Weights	Bollard (CT2101) 77 lbs (34 kg) Pole Mount (CT2102) 52 lbs (23 kg) Wall Mount (CT2103) 55 lbs (25 kg)	

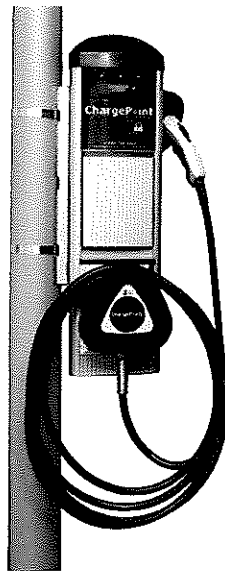
Coulomb Technologies, Inc. reserves the right to alter product offerings and specifications at any time without notice, and is not responsible for typographical or graphical errors that may appear in this document.



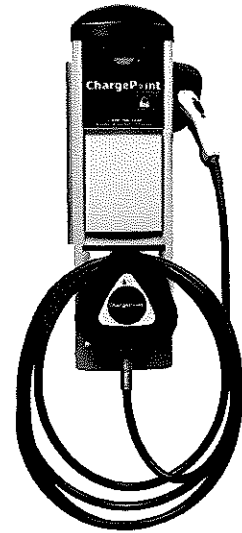
**BOLLARD (CT2101)**



**POLE MOUNT (CT2102)**



**WALL MOUNT (CT2103)**



### Ordering Information

Specify model number followed by the applicable code(s). The order code sequence is:

*Model-Modem-SIM-Holster-Card Reader-Warranty*


Option	Order Code
<i>Model</i>	
Bollard Mount	CT2101
Pole Mount	CT2102
Wall Mount	CT2103
<i>Modem</i>	
Integral CDMA ChargePoint Gateway Modem	-CDMA
Integral GPRS ChargePoint Gateway Modem	-GPRS
<i>SIM</i>	
USA GPRS SIM	-SIM1
Canada GPRS SIM	-SIM2
<i>Holster</i>	
Locking Holster	-LOCK
<i>Card Reader</i>	
Contactless Credit Card Reader	-CCR
<i>Warranty</i>	
5 Year Parts Only Extended Warranty	-EW5
5 Year Parts Only Extended Warranty - Gateway	-EW5GW

### Order Code Examples

If ordering this	The order code would be
Pole Mount	CT2102
Bollard Mount with CDMA Gateway	CT2101-CDMA
Bollard Mount with GPRS Gateway and Canada GPRS SIM	CT2101-GPRS-SIM2
Wall Mount with USA GPRS Gateway, Contactless Credit Card Reader and 5 year extended parts warranty	CT2103-GPRS-SIM1-CCR-EW5GW

**For pricing and additional product information, contact the distributor in your area. For a complete list of distributors, go to [www.coulombtech.com](http://www.coulombtech.com) and click Purchase.**

Coulomb Technologies, Inc. - 1692 Dell Ave. - Campbell, CA 95008-6901 USA  
 408.841.4500 - 877.370.3802 - [info@coulombtech.com](mailto:info@coulombtech.com)  
[www.coulombtech.com](http://www.coulombtech.com) - [www.mychargepoint.net](http://www.mychargepoint.net)

Listed by Underwriters Laboratories Inc. 



October 20, 2010

Andy Gerecke  
City of Novi  
45175 West Ten Mile Rd  
Novi, MI 48375

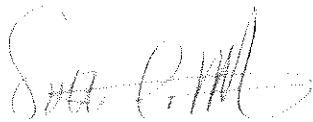
Dear Mr. Gerecke:

Congratulations! You have been awarded one or more Coulomb Technologies, Inc. electric vehicle charging station(s) under the ChargePoint America™ Program . The Program has been funded in part under the terms of Grant number DE-EE0003391 from the United States Department of Energy as part of the American Reinvestment and Recovery Act. In order to receive delivery of the Charging Station(s), you must agree to all of the terms and conditions following. Furthermore, you need to:

1. Countersign at the end of this letter and provide a copy of it back to Coulomb or to the local Coulomb Distributor
2. Provide a \$0 PO to Coulomb Technology for the charger(s). Please make sure the part numbers on the order correspond to the part numbers on this letter and provide a ship to address with a contact name, phone number, and email.
3. Sign and return the attached Master Services Support Agreement
4. Return the documents within 30 days of the date of this award letter

Please note that delivery of the charging systems will be from 8 - 10 weeks of receipt of PO and associated signed documents. We appreciate your participation in this exciting program and look forward to creating an electric vehicle charging infrastructure in your area.

Best regards,



Scott A. Miller  
Eastern Region Director  
ChargePoint America Program  
Coulomb Technologies

**CHARGEPOINT AMERICA™ STATION AWARD AGREEMENT**



1. **Charging Stations.** You ("You") have been awarded, and may be awarded from time to time, one or more Coulomb Technologies, Inc. ("CTI") electric vehicle charging stations under the ChargePoint America™ Program . The Program has been funded in part under the terms of Grant number DE-EE0003391 from the United States Department of Energy (the "DOE") as part of the American Reinvestment and Recovery Act ("ARRA"). The charging stations will be installed at the locations specified on Appendix A, as amended from time to time to reflect the award of additional Charging Stations under this Station Award Agreement.

Product Name	Product Description	Product Code	Quantity	Unit Price	Total Price
CT2101C-CDMA-LOCK-CCR	Dual 208/240-30A & 120V-12A Bollard with CDMA, locking holster, and credit card reader	CT2101C-CDMA-LOCK-CCR	2	\$0.00	\$0.00

<b>Grand Total:</b>	\$0.00
---------------------	--------

2. **Shipment and Delivery.** CTI will pay for the cost of standard delivery charges of the Charging Stations to the locations designated by You in writing to CTI. CTI shall choose the method by which Charging Stations are to be delivered. If You desire expedited delivery, You will be responsible for the payment of all delivery charges. No Charging Stations will be delivered until CTI has received written confirmation that You have obtained all applicable permits for the installation of the Charging Stations. A CTI representative, or one of its authorized distributors ("Authorized Distributors") will assist You in obtaining the necessary permits.

3. **Installation.**

(a) Installation of the Charging Stations shall be at your sole cost and expense. Unless specifically agreed in writing, installation of the Charging Stations may only be done by an Authorized Distributor or one or more installers chosen by such Authorized Distributor. Should You wish to use your own installer, you shall request CTI's permission, in its reasonable discretion, to do so no more than fifteen (15) days prior to the scheduled installation date. You should be aware, however, that your installer may be subject to the provisions of the Davis Bacon Act (FAR 52.222-6). The Davis Bacon Act is a federal law that requires certain private contractors working on federal construction projects to pay their workers a wage at least equal to locally prevailing wages, as determined by the United States



Department of Labor, for the type of work being performed. It is likely that the installation of Charging Stations would be treated as a federal construction project requiring observance of the Davis Bacon Act requirements. Union pay scales have frequently been used as a guide by the Department of Labor when determining locally prevailing wages. In addition, because the Charging Stations are being awarded to You under a federal program, in the event You use your own installer, such installer shall become subject to certain audit and other rights granted to the United States government and to CTI. YOU SHOULD CONTACT CTI IMMEDIATELY FOR A COMPLETE EXPLANATION OF THE APPLICABLE REPORTING, AUDITING AND OTHER REQUIREMENTS THAT APPLY TO YOU OR YOUR INSTALLER SHOULD YOU WISH TO USE YOUR OWN INSTALLER TO INSTALL THE CHARGING STATIONS. In the event you choose to use your own installer, you shall indemnify and hold harmless CTI from all costs (including, without limitation, reasonable attorneys' fees), losses, charges, fees, fines and other expenses of any sort whatsoever, including, without limitation, the refusal of the DOE to provide reimbursement to CTI in respect of the Charging Stations awarded to you, incurred by CTI as a result of such installer's (i) failure to comply with any applicable law, including, without limitation, the Davis-Bacon Act or (ii) failure to provide CTI such documentation as is reasonably needed by it to comply with applicable DOE requirements.

(b) You agree to cause the installation of the Charging Stations within forty five (45) days of their delivery to You. In the event that the Charging Stations have not been installed by the expiration of such forty five day period, CTI reserves the right to reclaim the Charging Stations. In the event that You are having trouble arranging for the installation of the Charging Stations by an Authorized Distributor or an installer chosen by such Authorized Distributor, please contact CTI as soon as possible so that it can assist you in obtaining prompt installation of the Charging Stations.

(c) The Charging Stations are not to be removed from their packaging by any person other than the Installer.

**4. Warranty/Limitation of Liability.** (a) **Warranty.** The Charging Station is covered by the terms of CTI's standard Warranty (the "Warranty") for a period beginning on the date of installation and running until December 31, 2013. A copy of the Warranty is included with this agreement. All applicable warranties with respect to the Charging Station are set forth in the Warranty, and are hereby incorporated by reference into this Agreement.

(b) **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 4 AND IN THE WARRANTY, CTI MAKES NO WARRANTY WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATION, THE CHARGEPOINT™ NETWORK STANDARD SERVICES OR THE CHARGEPOINT™ NETWORK, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. CTI EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS BY THE CHARGING STATION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CTI DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF THE CHARGING STATION.

(c) **Limitation of Liability.**



(i) REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL CTI BE LIABLE FOR ANY LOST REVENUE OR PROFIT, LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE THE CHARGING STATION, THE CHARGEPOINT™ NETWORK, ANY CHARGEPOINT™ NETWORK SERVICES, OR OTHERWISE OR BASED ON ANY EXPRESSED, IMPLIED OR CLAIMED WARRANTIES BY YOU NOT SPECIFICALLY SET FORTH IN THIS ADDENDUM. BECAUSE SOME STATES OR JURISDICITON DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY.

(ii) YOUR SOLE REMEDY FOR ANY BREACH BY CTI OF ITS OBLIGATIONS OR WARRANTIES UNDER THIS AGREEMENT SHALL BE LIMITED TO, AT CTI'S OPTION, REPAIR OR REPLACEMENT OF THE CHARGING STATION.

(d) **Warranty Exclusions. Exclusive Remedies.** THE REMEDIES CONTAINED IN SECTION 4 ARE YOUR SOLE AND EXCLUSIVE REMEDIES AND ARE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES YOU MAY HAVE AGAINST CTI WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATIONS, THE CHARGEPOINT™ NETWORK STANDARD SERVICES OR THE CHARGEPOINT™ NETWORK.

**5. Access to the Public.** All of the Charging Stations will be installed in a manner and in locations that make them available for access and use by the general public. The Charging Stations, and the facilities in which they are located, shall be kept clean and in good repair. You shall promptly call CTI or an Authorized Distributor in order to arrange for the repair of any non-functioning Charging Stations.

**6. Network Access.** As a part of the award, You will receive free a free subscription for ChargePoint™ Network Standard Service, as defined in the ChargePoint™ Master Services Subscription Agreement (the "Master Services Agreement"), that will expire December 31, 2013 (the "Subscription Period"). You must execute a copy of the Master Services Agreement as a part of your obligations under this ChargePoint America™ Station Award Agreement and must keep the Charging Stations connected to the ChargePoint™ Network throughout the entire Subscription Period. CTI offers various other services, such as billing services, which may be accessed through the ChargePoint™ Network. All of such services are subject to CTI's standard terms and conditions.

**7. Access to Information.** In consideration of your receipt of the Charging Stations and free subscription to ChargePoint™ Network Standard Service, you agree to provide and release to CTI, the DOE, such other participants and partners of CTI in the Program as CTI shall determine necessary, all data and information relating to You, Your electric vehicles, if any, and their use, the use by others of Your Charging Stations and Your use of the Charging



Stations and any public Charging Stations and infrastructure (the "Data"). You acknowledge and agree that the Data may be used by any of the above-described persons for any purpose, including analyzing Your use and charging patterns, the public's use of Your Charging Stations, the effectiveness of infrastructure put in place to meet the needs of drivers of electric vehicles, and the efficacy of the Program.

Your performance of this Agreement and willingness to supply and release Data to the persons described in the immediately preceding paragraph is a material condition to CTI's willingness to enter into this Agreement with You and provide the Charging Stations hereunder. You understand, acknowledge and agree that CTI will need Your reasonable cooperation and assistance, and You agree to provide your reasonable cooperation and assistance to CTI, so that CTI can successfully conduct its testing and collect Data from You, the Charging Stations, and public electric vehicle infrastructure utilized by You and others. Except as set forth in this Section 7, the use of the Charging Stations will be subject to CTI's standard privacy policy (the "Privacy Policy"). The Privacy Policy is located on CTI's web site and may be accessed at: <https://www.chargepointportal.net/index.php/general/uri/privacy.html>.

Notwithstanding anything to the contrary contained in this Section 7, or in the Privacy Policy, CTI reserves the right, on behalf of the DOE, to collect certain anonymous information regarding the use and operation of the Charging Stations.

**8. Certain Rights of the United States Government.** Notwithstanding the fact that You are being awarded the Charging Stations under the Program, the United States Government reserves the right to seize the Charging Stations under certain, limited circumstances, including, without limitation, national emergency.

**9. No Right to Remove or Sell the Charging Stations.** The Charging Stations may not be sold or removed from their place of installation, prior to January 1, 2014, without the prior written consent of CTI.

**10. Additional Charging Stations.** In the event that You have purchased Charging Stations that are to become a part of the Program, CTI's standard terms and conditions shall apply.

**11. No Amendment or Modification.** No modification, amendment or waiver of this Agreement shall be effective unless in writing and either signed or electronically accepted by the party against whom the amendment, modification or waiver is to be asserted.

**12. Waiver.** CTI's failure at any time to require your performance of any obligation under this Agreement will in no way affect the full right to require such performance at any time thereafter. CTI's waiver of a breach of any provision of this Agreement will not constitute a waiver of the provision itself. CTI's failure to exercise any of its rights provided in this Agreement will not constitute a waiver of such rights. No waiver will be effective unless in writing and signed by a CTI authorized representative. Any such waiver will be effective only with respect to the specific instance and for the specific purpose given.



**13. Applicable law.** This Agreement will be construed, and performance will be determined, according to the laws of the State of California without reference to such state's principles of conflicts of law and the state and federal courts of California shall have exclusive jurisdiction over any claim arising under this Agreement.

**14. Waiver of Jury Trial.** You and CTI each hereby waive any right to jury trial in connection with any action or litigation arising out of this Agreement.

**15. Severability.** Except as otherwise specifically provided herein, if any term or condition of this Agreement or the application thereof to either You or CTI will to any extent be determined 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, You and CTI or circumstances other than those as to which it is determined to be invalid or unenforceable, will not be affected thereby.

**16. Assignment.** You may not assign any of your rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of CTI.

**17. 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.

**COULOMB TECHNOLOGIES, INC.**

Praveen K. Mandal, President

**AWARDEE:**

By: \_\_\_\_\_  
(Signature)

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

Title: \_\_\_\_\_



## APPENDIX A - CHARGING STATION LOCATIONS

Station #1 – Novi Police Department. 45125 W 10 Mile Rd Novi, MI 48375-3027 (Note: must be available for public parking)

Station #2 – Novi Public Library. 45255 West Ten Mile Rd. Novi, MI 48375





**CHARGEPOINT®**  
**MASTER SERVICES SUBSCRIPTION AGREEMENT**

**IMPORTANT: PLEASE READ THIS MASTER SERVICES SUBSCRIPTION AGREEMENT (“AGREEMENT”) CAREFULLY.**

**THIS AGREEMENT GOVERNS REGISTRATION OF YOUR CHARGING STATION ON THE CHARGEPOINT NETWORK AND ACTIVATION OF CHARGEPOINT NETWORK SERVICES. SUBSCRIBING FOR A CHARGEPOINT NETWORK SERVICE CONSTITUTES ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT AND IS BINDING ON YOU AND THE BUSINESS ENTITY YOU REPRESENT (COLLECTIVELY, “SUBSCRIBER” OR “YOU”). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE AUTHORITY TO BIND SUCH COMPANY OR OTHER LEGAL ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS; IF NOT, YOU MAY NOT ENTER INTO THIS AGREEMENT AND MAY NOT USE THE CHARGEPOINT SERVICES.**

**YOU MAY NOT ACCESS THE CHARGEPOINT SERVICES IF YOU ARE A DIRECT COMPETITOR OF CTI EXCEPT WITH CTI’S PRIOR WRITTEN CONSENT. IN ADDITION, YOU MAY NOT ACCESS THE CHARGEPOINT SERVICES FOR PURPOSES OF MONITORING THEIR AVAILABILITY, PERFORMANCE OR FUNCTIONALITY, OR ANY OTHER BENCHMARKING OR COMPETITIVE PURPOSE.**

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

- 1.1**            **“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.
- 1.2**            **“ChargePass™ RFID Card”** means a CTI provisioned radio-frequency identification card issued to a ChargePass Account Holder which permits a User of such card access to the ChargePoint Network for the delivery of Subscriber-provided services and the ChargePass Account Holder to use the ChargePoint Network to manage their ChargePass Account.
- 1.3**            **“ChargePass Account”** means an account registered with CTI that permits a User to prepay for access to Networked Charging Stations utilizing a ChargePassRFID Card.
- 1.4**            **“ChargePass Account Holder”** means a User who has registered with the Network Operator and created a ChargePass Account.
- 1.5**            **“ChargePoint Network”** means the Network Operator provisioned software, firmware, hardware (excluding Charging Stations owned and registered by Subscribers) and services for Subscribers and Users that, among other things, provision, manage, and allow access to Networked Charging Stations by ChargePass Account Holders via the RFID Card and by other Users via the utilization of contactless RFID embedded credit cards, or authorized credit or electronic debit card transactions and permit Subscribers to register, activate, monitor and operate Charging Stations .
- 1.6**            **“ChargePoint Network Standard Service”** means the bundled group of ChargePoint Services that assist in the basic operation of the Networked Charging

Stations. The ChargePoint Network Standard Service is required to be subscribed to by Subscriber in order to register and activate a Charging Station on the ChargePoint Network.

- 1.7 ***“ChargePoint Services”*** means the ChargePoint Network support services and ChargePoint software applications, as such may be introduced and made available to Subscribers by the Network Operator from time to time, which provide network support and functionalities for Users and Subscribers and allow Subscribers, among other things, to monitor and control Networked Charging Stations. ChargePoint Services, including, but not limited to, the ChargePoint Network Standard Service, are made available for subscription by Subscribers pursuant to Purchase Orders entered into between Subscriber and CTI.
- 1.8 ***“Charging Session”*** has the same definition as “Session” set forth below.
- 1.9 ***“Charging Station”*** means the electric vehicle charging station(s) installed by Subscriber at the Subscriber Location(s), either manufactured by CTI or by another entity, which have embedded within them CTI proprietary hardware and firmware, enabling Subscriber to register and activate such charging stations on the ChargePoint Network. A charging station may be designated by a Subscriber as a Commercial Charging Station or a Free Charging Station, a Public Charging Station or a Private Charging Station and such designations may be changed at any time with respect to any Networked Charging Station(s) utilizing the ChargePoint Network Standard Service.
- 1.10 ***“Commercial Charging Station”*** means a Charging Station that is designated by the Subscriber as one where Users must pay a Session Fee for access to the Charging Station.
- 1.11 ***“CTI”*** means Coulomb Technologies, Inc., a Delaware corporation.
- 1.12 ***“CTI Marks”*** means the various trademarks, service marks, names and designations used in connection with the CTI manufactured Charging Stations and/or the ChargePoint Network, including, without limitation, ChargePoint and ChargePass.
- 1.13 ***“CTI Intellectual Property”*** means all intellectual property of CTI relating to the CTI Marks, the ChargePoint Network, the ChargePoint Services, ChargePass, ChargePass RFID Cards, ChargePass Accounts and all other Intellectual Property Rights of CTI.
- 1.14 ***“Documentation”*** means written information (whether contained in user or technical manuals, product materials, specifications or otherwise) pertaining to ChargePoint Services and/or the ChargePoint Network and made available by the Network Operator to Subscribers and/or Users in any manner (including on-line).
- 1.15 ***“Free Charging Station”*** means a Charging Station that is designated by the Subscriber as one where Users do not pay a Session Fee for access to the Charging Station.
- 1.16 ***“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.

- 1.17 ***“Malicious Code”*** means viruses, worms, time bombs, Trojan horses and other malicious code, malware, spyware, files, scripts, agents or programs.
- 1.18 ***“Net Session Fees”*** means all Session Fees actually collected on behalf of the Subscriber from Users by Network Operator for use of Networked Charging Stations less Session Authorization Fees and Session Processing Fees, as well as any Taxes and Regulatory Charges, if any, required by law to be collected by CTI from Users in connection with the use of Networked Charging Stations . Except as required by law, Subscriber shall be responsible for the payment of all Taxes and Regulatory Charges incurred in connection with the Networked Charging Stations.
- 1.19 ***“Networked Charging Station”*** means a Charging Station for which a Subscriber has subscribed for the ChargePoint Network Standard Service and registered and activated such Charging Station on the ChargePoint Network.
- 1.20 ***“Network Operator”*** means the entity responsible for provisioning, managing and maintaining the ChargePoint Network and offering ChargePoint Services. CTI is the Network Operator in North America but is permitted at any time to assign its rights and obligations as Network Operator under this Agreement to another entity.
- 1.21 ***“Network Web Portal”*** means any of the secure Internet web portals established and maintained by the Network Operator which will allow (i) Subscriber through its Subscriber Accounts to access ChargePoint Services for the management and control of Subscriber’s Networked Charging Stations and (ii) ChargePass Account Holders through their respective ChargePass Accounts to track their use of Networked Charging Stations, replenish ChargePass RFID Cards and otherwise manage their ChargePass Account.
- 1.22 ***“Party”*** means the Network Operator and Subscriber.
- 1.23 ***“Private Charging Station”*** means a Charging Station for which access by the general public is restricted (*e.g.*, a Charging Station located in a private parking facility or restricted corporate campus).
- 1.24 ***“Public Charging Station”*** means a Charging Station that is accessible by any User subject only to stated hours of operation.
- 1.25 ***“Purchase Order”*** means the purchase order(s) or other documentation entered into between Subscriber and the Network Operator, its distributors or other authorized representatives for the subscription of ChargePoint Services the terms of which are incorporated herein by reference.
- 1.26 ***“Purchased ChargePoint Services”*** means those ChargePoint Services made available by the Network Operator and for which a Subscription has been purchased by Subscriber with respect to any of Subscriber’s Networked Charging Stations or for which the Subscription Term has automatically been renewed pursuant to Section 8.3 (Automatic Renewal of Subscriptions).

- 1.27 ***“Regulatory Charges”*** is defined in Section 4.6 (Taxes and Regulatory Charges).
- 1.28 ***“Session”*** or ***“Charging Session”*** means a continuous period of time measuring not less than five (5) minutes commencing when a User has accessed a Networked Charging Station and the delivery of Subscriber provided services has been initiated and terminating upon the cessation by such User of the Subscriber provided services.
- 1.29 ***“Session Authorization Fees”*** means the fees payable by the Subscriber to the Network Operator to pre-authorize a Charging Session at a Commercial Networked Charging Station.
- 1.30 ***“Session Fees”*** means the fees set by the Subscriber for a Charging Session, including any applicable Taxes and/or Regulatory Charges.
- 1.31 ***“Session Processing Fees”*** means the fees charged by the Network Operator for the management, collection and processing of Session Fees on behalf of Subscriber and the remittance of Net Session Fees to Subscribers.
- 1.32 ***“Session Transaction Fees”*** means the complete set of fees, session authorization fees and session processing fees, charged by the Network Operator to the Subscriber for collection of User Session Fees on behalf of the Subscriber, as well as any applicable Taxes and Regulatory Charges.
- 1.33 ***“Software Application”*** means computer programs, including firmware, as provided or otherwise made available to Subscriber by the Network Operator, or its distributors or other authorized representatives, as embedded in or downloaded by Subscriber to the Subscriber’s Charging Stations, related products and any Upgrades.
- 1.34 ***“Subscriber”*** is an owner of one or more Charging Stations for which Subscriber has purchased Subscriptions for ChargePoint Services and registered with and activated on the ChargePoint Network.
- 1.35 ***“Subscriber Account”*** means an account established by a Subscriber.
- 1.36 ***“Subscriber Location(s)”*** means the physical locations where Subscriber has installed Networked Charging Stations registered with the ChargePoint Network.
- 1.37 ***“Subscription”*** means a subscription for ChargePoint Services purchased by a Subscriber.
- 1.38 ***“Subscription Fees”*** means the fees payable by Subscriber to the Network Operator for subscribing to any of the ChargePoint Services.
- 1.39 ***“Subscription Term”*** means the Term for which Subscriber has purchased a Subscription for Purchased ChargePoint Services for a Networked Charging Station.
- 1.40 ***“Taxes”*** is defined in Section 4.6 (Taxes and Regulatory Charges).
- 1.41 ***“Upgrades”*** means any authorized upgrades, updates, bug fixes or modified versions of Software Applications furnished by the Network Operator.
- 1.42 ***“Users”*** means any person using Networked Charging Stations including, without limitation, ChargePass Account Holders.

1.43 "You" or "Your" means the company or other legal entity for which you are accepting this Agreement and the Affiliates of that company or entity.

## 2. CTI'S RESPONSIBILITIES AND AGREEMENTS.

2.1 **NETWORK OPERATION.** The Network Operator shall be solely responsible for: (i) **Provisioning and Operating the ChargePoint Network** – provisioning and operating, maintaining, administration and support of the ChargePoint Network infrastructure (but excluding Subscribers' Charging Stations and infrastructure for transmitting data from Networked Charging Stations to any ChargePoint Network operations center); (ii) **Provisioning and Operating Network Web Portals** – provisioning and operating, maintaining, administration and support of the Network Web Portals; (iii) **User Acquisition, Administration and Support** -- acquisition and registration of new ChargePass Account Holders, administration and support of ChargePass Accounts and provisioning the support services for Users embodied in the ChargePoint Services, and (iv) **Data Protection** – using commercially reasonable efforts to comply with all applicable laws and regulations of the United States of America and all other governmental entities governing, restricting or otherwise pertaining to the use, distribution, export or import of data, products, services and/or technical data whether such information or data relates to either the Subscriber or Users in connection with the ChargePoint Network.

2.2 **PURCHASED CHARGEPOINT SERVICES.** The Network Operator shall make the Purchased ChargePoint Services available to Subscriber pursuant to this Agreement and the applicable Purchase Orders for each Networked Charging Station during the Subscription Term. The Network Operator represents and warrants that: (i) **Authority** -- it has the power and authority to enter into and be bound by this Agreement, (ii) **Performance of ChargePoint Services** -- the ChargePoint Services shall perform materially in accordance with the Documentation, (iii) **Support for Purchased ChargePoint Services** – it will provide all support for Purchased ChargePoint Services and technical support and maintenance for all Software Applications as set forth in the Documentation, including, without limitation, Upgrades, (iv) **Continuity of Purchased ChargePoint Services** – It will use commercially reasonable efforts to make the Purchased ChargePoint Services available 24 hours a day, 7 days a week, 365 days per year, except for planned downtime (of which Subscriber shall be given not less than eight (8) hours prior notice via electronic messaging to the email address for notices specified in each Subscriber Account), (v) **No Decrease in Functionality of ChargePoint Services** -- subject to Section 2.3(vi), the functionality of the ChargePoint Services shall not materially decrease during the Subscription Term, and (vi) **Malicious Code** – it will use commercially reasonable efforts to ensure that it does not transmit to Subscriber any Malicious Code (excepting Malicious Code transmitted to CTI or the Network Operator by Subscriber or its Affiliates). Subscriber's exclusive remedy for a breach of any of the foregoing shall be as provided in Section 8.4 (Termination) and Section 8.5 (Refund or Payment Upon Termination) as set forth below.

2.3 **LIMITATIONS ON RESPONSIBILITY.** Neither CTI, its distributors nor its other authorized representatives nor the Network Operator shall be responsible for, or makes any representation or warranty to Subscriber with respect to the following: (i) **Competing Subscriber Locations** -- specific location(s) or number of Networked Charging Stations now, or in the future, owned, operated and/or installed by Subscribers other than Subscriber, or the total number of Networked Charging Stations that comprise the ChargePoint Network; (ii) **Electrical Service Interruptions** – continuous availability of electrical service to any Networked Charging Stations; (iii) **Cellular and Internet Service Interruptions** – continuous availability of any wireless or cellular communications network or Internet service provider network not operated by CTI or the Network Operator; (iv) **Network Intrusions** – availability of or interruption of the ChargePoint Network attributable to unauthorized intrusions; (v) **Unregistered Charging Stations** -- Charging Stations that are not registered and activated with the ChargePoint Network, and (vi) **Google™ Services** – the continued availability of any Google services incorporated for

use with the ChargePoint Services; provided that, if Google ceases to make the Google Application Programming Interface ("API") or any similar program available on reasonable terms for the ChargePoint Services, the Network Operator shall make commercially reasonable efforts to replace the Google API or such similar program with products providing similar functionalities if such products are available upon terms which the Network Operator, in its reasonable discretion, believes are commercially reasonable; and provided further that, if Google ceases to make the Google API or similar program available, or available on reasonable terms for the ChargePoint Services, the Network Operator may cease providing such features without entitling Subscriber to any refund, credit or other compensation.

**2.4 DISCLAIMER OF WARRANTY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS SECTION 2, NEITHER CTI, THE NETWORK OPERATOR NOR ANY OF THEIR RESPECTIVE DISTRIBUTORS OR OTHER AUTHORIZED REPRESENTATIVES AS APPLICABLE, MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND HEREBY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY FOR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

### **3. SUBSCRIBER RESPONSIBILITIES AND AGREEMENTS**

**3.1 GENERAL.** Subscriber shall be solely responsible for: (i) ***Installation of Charging Stations and/or Related Electrical Vehicle Charging Products*** – the purchase and installation of Subscriber's Charging Stations and other electrical vehicle charging products shall be at Subscriber's sole cost and expense; (ii) ***Registration and Activation of Charging Stations with the ChargePoint Network*** – registration with and activation of Subscriber's Charging Stations on the ChargePoint Network through a Network Web Portal, including, without limitation, keeping current Subscriber's contact information, email address for the receipt of notices hereunder, billing address for invoices and payment of Subscriber's Net Session Fees due under this Agreement; (iii) ***Pricing and Access*** -- setting the pricing (including all applicable Taxes and Regulatory Charges) for any Subscriber provided services accessed by Users through Networked Charging Stations that are designated Commercial Charging Stations and any conditions limiting access thereof, (iv) ***Update of Registration of Charging Stations*** -- if a Networked Charging Station is moved from its registered location Subscriber shall update the registration location of the Networked Charging Station on the appropriate Network Web Portal within five (5) business days of making any change in the Subscriber Location(s); (v) ***Identification of Charging Stations and Subscriber Locations*** – provisioning and installation of appropriate signage that clearly and prominently identifies and, where appropriate, provides directions to the Subscriber Locations so that they may be easily located by Users; (vi) ***Public Access Level*** – designation of each Networked Charging Station as either a Public Charging Station or a Private Charging Station; (vii) ***Commercialization*** – designation of each Networked Charging Station as either a Commercial Charging Station or a Free Charging Station; (viii) ***Appearance and Cleanliness*** -- keeping Networked Charging Stations and Subscriber Locations(s) clean and free of graffiti, unauthorized advertising, debris and other materials that would obscure, block access or otherwise detract from or cast a negative light on the reputation of the ChargePoint Network; (ix) ***Maintenance, Service and Repair of Networked Charging Stations*** – the maintenance, service, repair and/or replacement of Subscriber's Networked Charging Stations as needed, including deactivation of Networked Charging Stations that are non-operational and not intended to be replaced or repaired by Subscriber within ten (10) business days from the ChargePoint Network; (x) ***Location of Charging Stations*** -- assuring the accessibility, lighting and other factors pertaining to the safety of Users while utilizing the Charging Stations not directly related to the design or manufacture of the Charging Stations themselves; and (xi) ***Compliance with Laws*** – operating and maintaining the Subscriber's Networked Charging Stations in a manner that complies with all applicable laws.

**3.2 REPRESENTATIONS AND WARRANTIES OF SUBSCRIBER.** Subscriber represents and warrants to CTI, the Network Operator, their respective its distributors and other authorized representatives that: (i) **Authority** -- Subscriber has the power and authority to enter into and be bound by this Agreement and to install the Charging Stations and any other electrical vehicle charging products to be registered and activated on the ChargePoint Network at the Subscriber Location(s); (ii) **No Violation With Subscriber's Electrical Supply or Other Agreements** -- Subscriber assumes all responsibility that the electrical usage consumed by any of Subscriber's Networked Charging Station does not violate or otherwise conflict with the terms and conditions of any applicable electrical purchase or other agreement including, without limitation, any lease, to which Subscriber is a party; (iii) **Installation of Charging Stations Will Not Violate Any Other Agreements or Laws** -- Subscriber 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. Subscriber will observe all legal requirements with respect to vehicle clearances from intersections, points of ingress or egress and public infrastructure such as fire hydrants, lampposts, parking meters, and will otherwise observe all applicable governmental restrictions or restrictions applicable to the Subscriber Locations under any other agreements to which Subscriber is subject; and (iv) **Compliance Laws** -- Subscriber will comply with all applicable laws.

**3.3 FURTHER AGREEMENTS OF SUBSCRIBER MADE IN CONNECTION WITH REGISTRATION OF CHARGING STATIONS ON THE CHARGEPOINT NETWORK AND USE OF CHARGEPOINT SERVICES.** Subscriber further acknowledges and agrees with the Network Operator, CTI, and their respective distributors and authorized representatives, as applicable, as follows: (i) **Display of CTI Marks** -- Subscriber will not remove, conceal or cover the CTI Marks or any other markings, labels, legends, trademarks, or trade names installed or placed on the Networked Charging Stations or any peripheral equipment for use in connection with the Networked Charging Stations for so long as such Charging Stations are Networked Charging Stations; (ii) **Use of Network Web Portals** -- Subscriber shall comply with, and shall have responsibility for and cause all other persons accessing or using Network Web Portals to comply with, all of the rules, regulations and policies of the Network Operator, as well as other networks and computer systems used to access Network Web Portals, whether operated by Subscriber, its suppliers or others and Subscriber agrees to indemnify and hold the Network Operator, CTI, and their respective distributors and authorized representatives, directors, shareholders, officers, agents, employees, permitted successors and assigns harmless from any third party notices, allegations, claims, suits or proceedings (each, a "Claim") resulting from Subscriber's use of Network Web Portals and the ChargePoint Services in violation of the terms of this Section 3.3(ii) or of Section 3.3(iii); (iii) **Use of the ChargePoint Network and ChargePoint Services** -- Subscriber shall be responsible for use of the ChargePoint Services in compliance with this Agreement, and in particular, shall: (A) use its commercially reasonable efforts to prevent unauthorized access to Purchased ChargePoint Services, (B) use the Purchased ChargePoint Services only in accordance with the Documentation and applicable laws and government regulation, (C) shall not sell, resell, rent or lease the Purchased ChargePoint Services, (D) shall not interfere with or disrupt the integrity of the ChargePoint Network, the ChargePoint Services or any third party data contained therein, and (E) shall not attempt to gain unauthorized access to the ChargePoint Network or the ChargePoint Services or their related systems or networks; (iv) **Future ChargePoint Services** -- Purchase Orders are not contingent on the delivery of any future functionality or features, nor dependent on any oral or written comments anticipating future functionality or features; (iv) **Ownership of Data** -- All data collected by the Network Operator in connection with the operation of the ChargePoint Network shall be owned by CTI and the Network Operator and Subscriber acknowledges and agrees that Subscriber shall have no right of access or the use of such data for any purpose other than the management of Subscriber's Networked Charging Stations while registered with the ChargePoint Network.

#### **4. FEES AND PAYMENT FOR PURCHASED CHARGEPOINT SERVICES.**



**4.1 SUBSCRIPTION FEES.** Subscriber shall pay the Subscription Fees set forth on any Purchase Order for Purchased ChargePoint Services. Except as otherwise specified herein or in any Purchase Order, (i) Subscription Fees are quoted in and payable in U.S. Dollars, (ii) Subscription Fees are based on ChargePoint Services purchased and not on actual usage, (iii) payment obligations are non-cancelable and are non-refundable, and (iv) Subscriptions are non-transferable (provided, that any Subscription may be transferred to a Charging Station that is purchased by Subscriber to replace a previously Networked Charging Station). Subscription Fees are based on annual periods that begin on the date of the Subscription start date and end each annual anniversary thereafter.

**4.2 INVOICING AND PAYMENT.** Subscriber shall provide the Network Operator with valid and up to date credit card information if Subscriber is subscribing for ChargePoint Services online through the applicable Network Web Portal. In all other cases, payment of Subscription Fees shall be made under the terms of any accepted Purchase Order pursuant to a method of payment reasonably acceptable to the Network Operator. Where Subscriber provides credit card information to the Network Operator through such Network Web Portal for the payment of Subscription Fees, Subscriber hereby authorizes the Network Operator to charge such credit card for all Purchased ChargePoint Services for the initial Subscription Term and the automatic renewal of Subscription Term(s) as set forth in Section 8.3 (Automatic Renewal of Subscriptions). All credit card charges shall be made in advance, either annually or in accordance with the terms of the accepted Purchase Order. If the Purchase Order specifies that payment shall be made by a method other than credit card, the Network Operator, its distributors or authorized representatives, as applicable, shall invoice Subscriber in advance in accordance with the accepted Purchase Order (including the automatic renewal of Subscription Term(s)) and invoiced charges shall be due within thirty (30) days of the invoice date.

**4.3 OVERDUE SUBSCRIPTION FEES.** If any invoiced Subscription Fees are not received by the Network Operator by the due date, then such charges: (i) may accrue late interest at the rate of one and one-half percent (1.5%) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until paid, and (ii) the Network Operator may condition future Subscription renewals and acceptance of Purchase Orders on payment terms other than those set forth herein.

**4.4 ACCELERATION AND SUSPENSION OF CHARGEPOINT SERVICES.** If any amount owing by Subscriber under this Agreement for Subscription Fees for Purchased ChargePoint Services or under any other agreement between the Network Operator and Subscriber is more than thirty (30) days overdue (or, in the event that Subscriber has authorized the Network Operator to charge the amount owing to Subscriber's credit card and payment under such credit card has been declined, more than 5 days has passed since Subscriber has received notice from the Network Operator of such event), the Network Operator may, without otherwise limiting the Network Operator's rights or remedies, accelerate Subscriber's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend the use by Subscriber of the Purchased ChargePoint Services until such amounts are paid in full.

**4.5 PAYMENT DISPUTES.** The Network Operator shall not exercise its rights under Section 4.3 (Overdue Subscription Fees) or Section 4.4 (Acceleration and Suspension of ChargePoint Services) if the applicable charges are under reasonable and good faith dispute and Subscriber is cooperating diligently to resolve the dispute.

**4.6 TAXES AND REGULATORY CHARGES.** Unless required by law or otherwise stated herein, Session Authorization Fees and Session Processing Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, but not limited to, value added, sales, local, city, state or federal taxes ("*Taxes*") or any fees or other assessments levied or imposed by any governmental

regulatory agency ("**Regulatory Charges**"). Subscriber is responsible for the payment of all Taxes and Regulatory Charges hereunder in connection with Purchased ChargePoint Services, Session Fees, Session Authorization Fees and Session Processing Fees; *provided*, that the Network Operator is solely responsible for all Taxes and Regulatory Charges assessable based on the Network Operator's income, property and employees. Where the Network Operator is required by law to collect and/or remit the Taxes or Regulatory Charges for which Subscriber is responsible, the appropriate amount shall be invoiced to Subscriber in accordance with this Section 4 and deducted by the Network Operator from Session Fees, unless Subscriber has otherwise provided the Network Operator with a valid tax or regulatory exemption certificate or authorization from the appropriate taxing or regulatory authority.

**5. FLEX-BILLING SERVICE FOR NETWORKED CHARGING STATIONS.**

**5.1. SESSION FEES.** Subscriber shall have sole authority to determine and set in real-time a User's Session Fees (which shall include all applicable Taxes and Regulatory Charges) applicable to Subscriber's Networked Charging Stations that are designated as Commercial Charging Stations.

**5.2 SESSION TRANSACTION FEES.** In exchange for the Network Operator collecting Session Fees on behalf of the Subscriber, the Subscriber hereby authorizes the Network Operator to deduct from all Session Fees collected: (i) a Session Authorization Fee, and (ii) a Session Processing Fee, each in the amount and subject to the terms and conditions as set forth in **Schedule 1**.

**5.3 PAYMENT TO SUBSCRIBER OF NET SESSION FEES.** The Network Operator shall remit to Subscriber not more than thirty (30) days after the end of each calendar month to the address set forth in Subscriber's Account information registered on the applicable Network Web Portal all Net Session Fees.

**5.5 NO COMMERCIALIZATION OF CHARGING STATIONS PRIOR TO JULY 1, 2010.** Subscriber acknowledges and agrees that prior to July 1, 2010, Networked Charging Stations shall not be commercialized, *i.e.*, no Session Authorization Fee will be paid by Subscribers and no Session Fees will be collected from Users.

**6. PROPRIETARY RIGHTS.**

**6.1 RESERVATION OF RIGHTS.** Subject to the limited rights granted expressly hereunder, CTI reserves all right, title and interest in and to the ChargePoint Services, including all related Intellectual Property Rights. No rights are granted to Subscriber hereunder except as expressly set forth herein. CTI 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 Subscribers or Users relating to the ChargePoint Services.

**6.2 RESTRICTIONS ON USE.** Neither Subscriber nor any of its Affiliates shall: (i) permit any third party to access the ChargePoint Services except as otherwise expressly provided herein or in any Purchase Order, (ii) create derivative works based on the ChargePoint Services, (iii) copy, frame or mirror any part or content of the ChargePoint Services, other than copying or framing on Subscribers own intranets or otherwise for Subscriber's own internal business purposes, (iv) reverse engineer any Charging Station or Software Application, or (v) access the ChargePoint Network, any Network Web Portal or the ChargePoint Services in order to (A) build a competitive product or service, or (B) copy any features, functions, interface, graphics or "look and feel" of any Network Web Portal or the ChargePoint Services.

**6.3 GRANT OF LIMITED LICENSE FOR CTI MARKS.**

**(a) LICENSE GRANT.** Subscriber is granted under this Agreement the nonexclusive privilege of displaying the CTI Marks during the Term of this Agreement in connection with the Networked Charging Stations installed by Subscriber. Subscriber warrants that it shall not use any of the CTI Marks for any products other than the Networked Charging Stations at the Subscriber Locations(s). CTI may provide

trademark usage guidelines with respect to Subscriber's use of the CTI Marks which will be made available on a Network Web Portal, in which case Subscriber thereafter must comply with such guidelines. If no such guidelines are provided, then for each initial use of the CTI Mark, Subscriber must obtain CTI's prior written consent, which shall not be unreasonably withheld or delayed, and after such consent is obtained, Subscriber may use the CTI Mark in the approved manner. The CTI Marks may not be used under this Agreement 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.

(b) **NO REGISTRATION OF CTI MARKS BY SUBSCRIBER.** Neither Subscriber nor any of its Affiliates will take any action, directly or indirectly, to register or apply for or cause to be registered or applied in Subscriber's favor or in the favor of any third party any CTI Marks or any patent, trademark, service mark, copyright, trade name, domain name or registered design that is substantially similar to a patent, trademark, service mark, copyright, trade name or registered design of CTI or the Network Operator, or that is licensed to, connected with or derived from confidential, material or proprietary information imparted to or licensed to Subscriber by CTI or the Network Operator .

(c) **USE OF CTI MARKS BY SUBSCRIBER ON INTERNET.** Subscriber shall be entitled to use the CTI Marks to promote the ChargePoint Network on Subscriber-owned websites and through the Internet advertising of Subscriber and its Affiliates, *provided*, that Subscriber is limited to using the CTI Marks in connection with the Internet as follows: (i) **Compliance with Law** -- the use must be in compliance with local rules regarding advertising of the Networked Charging Stations and the ChargePoint Network on the Internet; (ii) **No Domain Name** -- no license is granted to use or register any domain name containing "CTI", the name of the Network Operator or the CTI Marks; and (iii) **Notice of License** -- Subscriber and its Affiliates, as applicable, will at all times indicate that each of the CTI Marks is a mark of CTI and used under license, as appropriate.

(d) **TERMINATION AND CESSATION OF USE OF CTI MARKS.** Upon termination of this Agreement Subscriber and its Affiliates will immediately discontinue all use and display of the name "CTI", the name of the Network Operator and the CTI Marks.

**6.4 FEDERAL GOVERNMENT END USER PROVISIONS.** CTI provides the ChargePoint Services, including Software Applications and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the ChargePoint Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 11.211 (Technical Data) and FAR 11.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial items) and DFAR 226.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with CTI to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable Purchase order, contract or other agreement.

## **7. INDEMNIFICATION**

**7.1 INDEMNIFICATION OF SUBSCRIBER BY CTI.** CTI shall defend at its expense any third party notices, allegations, claims, suits, or proceedings ("**Claim**") against Subscriber and its Affiliates, and their respective directors, shareholders, officers, agents, employees, permitted successors and assigns, to the extent alleging that the use of any of the ChargePoint Services as permitted hereunder or the CTI Marks as furnished hereunder infringes or misappropriates the Intellectual Property Rights of any third party, and to pay costs and damages finally awarded in any such suit or agreed to by CTI in settlement with such third party (including reasonable attorney's fees and expenses), provided that CTI is notified promptly in writing of the suit and at CTI's request and at its expense is given control of said suit and all

requested reasonable assistance for defense of same. CTI agrees that it shall not settle any Claim unless Subscriber and its Affiliates, as applicable, are unconditionally released from any liability as part of any settlement. This indemnity does not extend to any suit based upon any infringement or alleged infringement of any Intellectual Property Rights by the combination of a product (including the ChargePoint Services) furnished by CTI with other elements not furnished by CTI if such infringement would have been avoided by the use of the CTI product (including in conjunction with the CTI furnished ChargePoint Services) alone.

**7.2 INDEMNIFICATION OF CTI AND THE NETWORK OPERATOR BY SUBSCRIBER.** Subscriber shall defend CTI, the Network Operator, and their respective distributors, authorized agents, directors, shareholders, officers, agents, employees, permitted successors and assigns against any Claim brought by a third party (i) as a result of Subscriber's negligence or willful misconduct or (ii) alleging that Subscriber's or any of its Affiliates' use of the ChargePoint Network or ChargePoint Services in violation of this Agreement infringes or misappropriates the Intellectual Property Rights of any third party or violates applicable law, and to pay costs and damages finally awarded in any such suit or agreed to by Subscriber in settlement with such third party (including reasonable attorney's fees and expenses), provided that Subscriber is notified promptly in writing of the suit and at Subscriber's request and at its expense is given control of said suit and all requested reasonable assistance for defense of same. Subscriber agrees that it shall not settle any Claim unless CTI, the Network Operator, and their respective distributors and/or other authorized representatives, as applicable, are unconditionally released from any liability as part of any settlement.

**7.3 LIMITATION OF LIABILITY.** Except for liability for indemnification against third party claims for infringement or misappropriation of intellectual property rights, the Network Operator and CTI's aggregate liability under this Agreement shall not exceed the aggregate Subscription Fees paid by Subscriber to the Network Operator in the calendar year prior to the event giving rise to the Claim. THE FOREGOING DOES NOT LIMIT SUBSCRIBER'S PAYMENT OBLIGATIONS FOR THE PURCHASED CHARGEPOINT SERVICES.

**7.4 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 CTI, THE NETWORK OPERATOR OR THEIR RESPECTIVE DISTRIBUTORS OR OTHER AUTHORIZED REPRESENTATIVES BE LIABLE FOR ANY LOST REVENUE OR PROFIT, LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE THE CHARGEPOINT NETWORK, ANY CHARGEPOINT SERVICES, THIS AGREEMENT OR OTHERWISE OR BASED ON ANY EXPRESSED, IMPLIED OR CLAIMED WARRANTIES BY SUBSCRIBER NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT AND EVEN IF CTI, THE NETWORK OPERATOR OR THEIR RESPECTIVE DISTRIBUTORS, OTHER AUTHORIZED REPRESENTATIVES, SUPPLIERS OR LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

**7.5 EXCLUSIVE REMEDY.** The foregoing states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party with respect to any Claim described in this Section 7.

**7.6 ELECTRICAL, CELLULAR AND INTERNET SERVICE INTERRUPTIONS.** None of CTI, the Network Operator, any of their respective distributors, other authorized representatives, or Subscriber shall have any liability whatsoever to the other with respect to damages caused by: (i) electrical outages, power surges, brown-outs, utility load management or any other similar electrical service interruptions

whatever the cause; (ii) interruptions in wireless or cellular service linking Networked Charging Stations to the ChargePoint Network; (iii) interruptions attributable to unauthorized ChargePoint Network intrusions; or (iv) interruptions in services provided by any Internet service provider not affiliated with CTI or the Network Operator. This includes the loss of data resulting from such electrical, wireless, cellular or Internet service interruptions.

## **8. TERM AND TERMINATION.**

**8.1 TERM OF AGREEMENT.** This Agreement shall become effective on the date of acceptance and continues until all Subscriptions (including any automatic renewals thereof) purchased by Subscriber have been terminated or otherwise have expired.

**8.2 TERM OF PURCHASED SUBSCRIPTIONS.** Subscriptions purchased by Subscriber commence on the start date specified in the Purchase Order and shall continue for the applicable Subscription Term specified therein for each Subscription or until the Purchased ChargePoint Services provided pursuant to any Subscription are otherwise terminated, changed or canceled by the Network Operator or Subscriber as allowed by the terms and conditions set forth herein.

**8.3 AUTOMATIC RENEWAL OF SUBSCRIPTIONS.** Unless otherwise specified in the applicable Purchase Order, all purchased Subscriptions shall automatically be renewed for a period equal to that of the expiring Subscription, unless either party gives the other notice of non-renewal not less than thirty (30) days prior to the schedule expiration date for the relevant Subscription Term. The per-unit pricing for any renewal term shall be the same as during the prior term unless the Network Operator shall have given Subscriber notice to the email address for the Subscriber Account that Subscriber has provided hereunder of any increase in pricing for Subscriptions not less than thirty (30) days prior to the end of such expiring Subscription, in which case the price increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed ten percent (10%) over the pricing for the relevant Purchased ChargePoint Services in the prior term, unless the pricing for such expiring Subscription was designated in the applicable Purchase Order as promotional or a one-time offer.

### **8.4 TERMINATION.**

**(a) BY THE NETWORK OPERATOR.** This Agreement and the Purchased ChargePoint Services furnished hereunder may be immediately suspended or terminated: (i) if Subscriber is in material violation of any of Subscriber's obligations under this Agreement, provided, that Subscriber shall be given written notice of such violation and if cured within thirty (30) days of such notice, any suspension or termination of Purchased ChargePoint Services shall be restored and this Agreement shall continue in effect, (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, or (iv) if, pursuant to the terms of this Agreement, the Network Operator is permitted the right to terminate upon the occurrence of an event or events.

**(b) BY SUBSCRIBER.** This Agreement may be terminated by Subscriber for cause: (i) upon thirty (30) days written notice given to the Network Operator alleging a material breach of this Agreement and the alleged breach remains unremedied at the expiration of such period, or (ii) the Network Operator 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. This Agreement may be terminated by Subscriber upon the voluntary deactivation and removal from registration via the applicable Network Web Portal of all Networked Charging Stations owned by Subscriber and its Affiliates from the ChargePoint Network, at which time this Agreement shall terminate effective immediately; provided, that Subscriber shall not be entitled to any refund of prepaid Subscription Fees as a result of such termination.

**8.5 REFUND OR PAYMENT UPON TERMINATION.** Upon any termination of this Agreement for cause by Subscriber pursuant to Section 8.4(b)(i), or (ii) or the election of the Network Operator to terminate this Agreement pursuant to Section 8.4(a)(iii), the Network Operator shall refund to Subscriber the pro-rata portion of any pre-paid Subscription Fees for the remainder of the applicable Subscription Term for all Subscriptions after the effective date of termination. Upon any termination for cause by the Network Operator pursuant to Section 8.4(a)(i), (ii) or (iv) or upon the voluntary removal from registration and activation of all of Subscriber's Network Charging Stations from the ChargePoint Network, Subscriber shall pay any unpaid Subscription Fees covering the remainder of the Subscription Term for any accepted Purchase Orders. In no event shall any termination relieve Subscriber of any liability for the payment of Subscription Fees or Session Processing Fees for any period prior to the termination date. Subscriber

**9. AMENDMENT OR MODIFICATION.** No modification, amendment or waiver of this Agreement shall be effective unless in writing and either signed or electronically accepted by the party against whom the amendment, modification or waiver is to be asserted; *provided*, that subject to any applicable Purchase Order the Network Operator may change the Session Authorization Fee and/or the Session Processing Fee as provided in **Schedule 1**.

**10. WAIVER.** The failure of either Party at any time to require performance by the other Party of any obligation hereunder will in no way affect the full right to require such performance at any time thereafter. The waiver by either Party of a breach of any provision hereof will not constitute a waiver of the provision itself. The failure of either Party to exercise any of its rights provided in this Agreement will not constitute a waiver of such rights. No waiver will be effective unless in writing and signed by an authorized representative of the Party against whom such waiver is sought to be enforced. Any such waiver will be effective only with respect to the specific instance and for the specific purpose given.

**11. FORCE MAJEURE.** Except with respect to payment obligations, neither the Network Operator 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 (a "*Force Majeure Event*"). A Force Majeure Event will include, but not be limited to, fire, flood, earthquake or other natural disaster (irrespective of such party's condition of any preparedness therefore); war, embargo; riot; strike; labor action; any lawful order, decree, or other directive of any government authority that prohibits a party from performing its obligations under this Agreement; material shortages; shortage of transport; and failures of suppliers to deliver material or components in accordance with the terms of their contracts.

**11. APPLICABLE LAW.** This Agreement will be construed, and performance will be determined, according to the laws of the State of California without reference to such state's principles of conflicts of law (the "*Applicable Law*") and the state and federal courts of California shall have exclusive jurisdiction over any claim arising under this Agreement.

**12. WAIVER OF JURY TRIAL.** Each Party hereby waives any right to jury trial in connection with any action or litigation arising out of this Agreement.

**13. SURVIVAL.** Those provisions dealing with the Intellectual Property Rights of CTI, 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 as contemplated hereby.

**14. 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. If, however such invalidity or unenforceability will, in the reasonable opinion of either Party cause this Agreement to fail of its intended purpose and the Parties cannot by mutual agreement amend this Agreement to cure such failure, either Party may terminate this Agreement for cause as provided herein above.

15. **ASSIGNMENT.** Subscriber may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the Network Operator (not to be unreasonably withheld). In the event of any purported assignment in breach of this Section 15, the Network Operator shall be entitled, at its sole discretion, to terminate this Agreement upon written notice given to Subscriber. In the event of such a termination, Subscriber shall pay any unpaid Subscription Fees covering the remainder of the Subscription Term for any accepted Purchase Orders. In no event shall any termination relieve Subscriber of any liability for the payment of Subscription Fees or Session Processing Fees for any period prior to the termination date. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. CTI and the Network Operator may each assign its rights and obligations under this Agreement. Within ninety (90) days of any such assignment, CTI or the Network Operator, as the case may be, shall provide written notice to Subscriber of the fact of such assignment.

16. **NO AGENCY OR PARTNERSHIP CREATED BY THIS AGREEMENT.** CTI, in the performance of this Agreement, and in its role as the Network Operator, is an independent contractor. In performing its obligations under this Agreement, CTI shall maintain complete control over its employees, its subcontractors and its operations. No partnership, joint venture or agency relationship is intended by CTI and any Subscriber to be created by this Agreement.

17. **ENTIRE AGREEMENT.** This Agreement, **Schedule 1** and the applicable Purchase Orders of Subscriber contain the entire agreement between the Parties and supersedes and cancels all previous and contemporaneous agreements, negotiations, commitments, understandings, representations and writings in respect to the subject matter hereof. To the extent of any conflict or inconsistency between the terms and conditions of this Agreement and any Purchase Order, the Purchase Order shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in any other documentation (excluding **Schedule 1** and Purchase Orders) shall be incorporated into or form any part of this Agreement, and all such purported terms and conditions shall be null and void.

18. **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.

**COULOMB TECHNOLOGIES, INC.**

Praveen K. Mandal, President

**SUBSCRIBER:**

By: \_\_\_\_\_  
(Signature)

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

Title: \_\_\_\_\_

**On Behalf of:**

\_\_\_\_\_  
(Print Name of Company or Other Legal Entity)

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

E-Mail Address for Notices: \_\_\_\_\_

\_\_\_\_\_

**(Please complete Appendix A if signing up for Flex Billing Service.)**



**Schedule 1: Subscriber Session Transaction Fee Schedule<sup>1</sup>**

<b><u>Fee Schedule</u></b>	<b><u>For Each Charging Session using ChargePass Card</u></b>	<b><u>For Each Charging Session Using Credit Card</u></b>
<b>Session Authorization Fee<sup>2</sup></b>	\$0.50 per Session	\$0.50 per Session
<b>Session Processing Fee<sup>3</sup></b>	7.5% of Session Fees	7.5% of Session Fees

<sup>1</sup> Subscriber is required to separately subscribe for the ChargePoint™ Network Standard Service in order to activate its Charging Stations on the ChargePoint™ Network.

<sup>2</sup> The Session Authorization Fee may not be increased more than once in any twelve (12) month period nor more than the greater of (i) ten percent (10%) or (ii) the Consumer Price Index rate of change promulgated by the United State Bureau of Labor Statistics with respect to the 12-month period just then ended when any notice of change is given by CTI to Subscribers.

<sup>3</sup> CTI may increase the Session Processing Fee payable pursuant to this Agreement at any time after July 1, 2011, upon not less than one hundred eight (180) days notice (the "***Notice Period***") given by electronic notice posted to the Subscriber Portal and sent to each individual Subscriber Account, and any such change shall thereafter be binding and enforceable with respect to Subscriber after the expiration of such Notice Period; ***provided, further,*** that the Session Processing Fee may not be increased by more than one percentage point in any twelve (12) month period, nor in the aggregate, increased to more than twenty percent (20.00%) of Session Fees at any time.

**Appendix A: Account Information Form for Flex Billing Services**

Complete and fax this form to Coulomb Technologies Sales Operations (+1-214-716-1244) to sign up for Flex Billing services. All fields are required (except where noted).

**Business Info**

Business Legal Name: \_\_\_\_\_

Business Legal Address: \_\_\_\_\_

(Number) (Street) (City) (State/Province) (Postal Code) (Country)

Business Federal Tax ID: \_\_\_\_\_

**Individual Point of Contact**

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

Contact Phone: \_\_\_\_\_

Contact Fax: \_\_\_\_\_

Contact Email Address: \_\_\_\_\_

**Bank Account Info**

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

Bank Address: \_\_\_\_\_

(Number) (Street) (City) (State/Province) (Postal Code) (Country)

Bank Routing number or Swift Code: \_\_\_\_\_

Bank's Account number (if applicable): \_\_\_\_\_

Business's Account Number: \_\_\_\_\_

Business's Account Name: \_\_\_\_\_

(Remit To Name, if different than Business Legal Name)

Business's Account Address: \_\_\_\_\_

(Remit To Address, if different than Business Legal Address)

Business's Federal Tax ID: \_\_\_\_\_

(if Remit To Entity is if different than Business Legal Entity)

**Additional Information (for Non-US Customers Only)**

Intermediary Bank Name: \_\_\_\_\_

Intermediary Bank Address:

\_\_\_\_\_

(Number) (Street) (City) (State/Province) (Postal Code) (Country)

Intermediary Bank Routing or Swift Code: \_\_\_\_\_

Intermediary Bank' Account number if applicable: \_\_\_\_\_



# City of Novi



Map Produced Using the  
City of Novi, Michigan  
Internet Mapping Portal



0 50 100 200

Feet

1 inch = 96 feet



Job Title: Charging Station Location - Police Training Center  
Date: 02/28/2011

## MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map. This map was produced under the terms of the City's Internet Site Use Policy available at <http://cityofnovi.org/Resources/SiteUsePolicy.asp>