

CHARGEPOINT®
MASTER SERVICES SUBSCRIPTION AGREEMENT

This Master Services and Subscription Agreement (“Agreement”) by and between the City of Saint Paul, Minnesota, a Municipal Corporation, (“Subscriber”) and Coulomb Technologies, Inc., a Delaware corporation, (“CTI” or “Network Operator”) governs registration, activation and use by Subscriber of Charging Stations on the ChargePoint Network.

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). Except for any damages caused by CTI which are subject to indemnification pursuant to the provisions of Section 7.1, 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 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 in accordance with the standard policies and procedures that Subscriber uses with respect to the rest of its property; (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, in accordance with the standard policies and procedures that Subscriber uses with respect to the rest of its property, 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, 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, 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/Minnesota Government Data Practices Act** -- All data collected by the Network Operator in connection with the operation of the ChargePoint Network shall be owned by CTI; provided that Subscriber shall have the right to access such data through one or more Subscriptions to ChargePoint Services or as otherwise required pursuant to the terms of the Minnesota Government Data Practices Act. Network Operator understands that all of the data created, collected, received, stored, used, maintained, or disseminated by the Network Operator is subject to the requirements of the Minnesota Government Data Practices Act and that the Network Operator must comply with the Minnesota Government Data Practices Act as if it were a government entity. The remedies in Minn. Stat. § 13.08 apply to the Network Operator. If any provision of this Agreement is in conflict with the Minnesota Government Data Practices Act or other Minnesota State laws, state law shall control.

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. 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. Invoiced charges shall be due within thirty-five (35) days of the invoice date. Notwithstanding anything to the contrary contained in any accepted Purchase Order, subscriptions are payable yearly, in advance. For the avoidance of doubt, Subscriber shall receive, at no charge to Subscriber, a 2-year subscription to ChargePoint Network Standard Service for use with each of the Charging Stations it acquired prior to January 1, 2011. Such subscription will begin to run on the date such Charging Stations are provisioned on the ChargePoint Network.

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.

4.4 Not Applicable.

4.5 PAYMENT DISPUTES. The Network Operator shall not exercise its rights under Section 4.3 (Overdue Subscription Fees) 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.

4.7 Audit. Pursuant to the requirements of Minnesota Statutes §16C.05, subd. 5, until the expiration of six (6) years after the furnishing of services pursuant to this Agreement, the Network Operator, upon written request, shall make available to the Subscriber, the State Auditor or the Subscriber's ultimate funding sources, a copy of this Agreement and the books, documents, records, and accounting procedures and practices of the Network Operator relating to this Agreement.

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**. No Session Authorization Fees or Session Processing Fees shall be due or payable unless Subscriber charges Session Fees to Users for access to its Charging Stations.

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.

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, (i) as a result of CTI's and/or the Network Operator's negligence or willful misconduct; or(ii) 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 pursuant to the provisions of Section 7.1 or 7.2, the Network Operator's, CTI's and/or Subscriber'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 JURISDICITON 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 sixty (60) 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 terminated: (i) upon thirty (30) days written notice given to Subscriber alleging a material breach of this Agreement and the alleged breach remains unremedied at

the expiration of such period (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 if the imposition regulatory authorization or review imposes commercially unreasonable charges upon CTI, 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, (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; (iii) upon notice of non-renewal as provided in section 8.3 above; or (iv) if, pursuant to the terms of this Agreement, Subscriber is permitted the right to terminate upon the occurrence of an event or events. 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), (ii), or (iv) 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.

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 Minnesota without reference to such state's principles of conflicts of law (the "**Applicable Law**") and the state and federal courts of Minnesota shall have exclusive jurisdiction over any claim arising under this Agreement.

12. Not Applicable.

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, this Agreement 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 unless otherwise agreed in writing by the parties.

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.

By: _____

Name: _____

Title: _____

CITY OF SAINT PAUL:

By: _____
(Signature)

Name: _____

Title: Assistant City Attorney

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 Schedule¹

<u>Fee Schedule</u>	<u>For Each Charging Session using ChargePass Card</u>	<u>For Each Charging Session Using Credit Card</u>
Session Authorization Fee²	\$0.50 per Session	\$0.50 per Session
Session Processing Fee³	7.5% of Session Fees	7.5% of Session Fees

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

² 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.

³ 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: _____