

ELECTRIC VEHICLE CHARGING STATION HOST SITE AGREEMENT

This Agreement ("Agreement"), effective as of this ____ day of January, 2017 (the "Effective Date"), is entered into by and between Energetics Incorporated ("Energetics"), a Maryland corporation, having an office and place of business at 7067 Columbia Gateway Drive, Suite 200, Columbia, Maryland 21046 and ____ ("Site Owner"), owning the property at ____ ("Host Site"). Collectively, Energetics and the Site Owner are each a "Party" to this Agreement or collectively the "Parties."

WHEREAS, Site Owner desires to have an electric vehicle charging station installed at the Host Site as part of Energetics' Animating the Electric Vehicle Market in New York State Project ("Project") funded in part by New York State Energy Research and Development Authority ("NYSERDA") Agreement Number 87421.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

- 1. Term.** The term of this Agreement begins on the Effective Date and ends on June 30, 2020.
- 2. Equipment.** One dual port (2 charging outlets) ChargePoint CT4000 Level 2 Commercial Charging Station ("Station") will be provided to the Site Owner for installation at the Host Site under this Project. Product specifications are provided in Attachment A. The Project will choose the method and cover the cost for standard delivery of the Station to the Host Site. If Site Owner desires expedited delivery, Site Owner will be responsible for the payment of all delivery charges.
- 3. Warranty.** The Station comes with a Limited Product Warranty as shown in Attachment B. Energetics will pay up to \$500 towards the repair of Station for the first product malfunction occurring outside of the Limited Product Warranty that was not caused by neglect on behalf of the Site Host. If Site Owner desires to purchase an extended Warranty from the manufacturer, Site Owner will be responsible for the payment for the warranty.
- 4. Installation.** Energetics has subcontracted with Plug-in Stations Online ("Installer") to supply and install the electric vehicle charging station at the Host Site. Final electrical connection of the Station to power may only be performed by this Installer. Other installation work prior to the final electrical connection of the Station to power can be performed by Installer or the Site Owner in collaboration with the Installer. The Station is not to be removed from its packaging by any person other than the Installer. Some Station protection (bollards, tire stop, curb, or an elevated wall-mount) is required and signage is strongly encouraged. Responsibilities and Costs are as stated in Section 20.
- 5. Access to Host Site and Station.** The Site Owner shall provide adequate access of the Host Site and Station to Energetics and the Installer. Such access must be consistent with the purpose of the Project. Energetics or the Installer will attempt to give the Site Owner a minimum of 48 hours notice prior to completing any visit to the Host Site; however, factors outside of Energetics' or the Installer's control may not always permit this.
- 6. Network Access.** Site Owner will receive, for use with the Station provided by this Project, a ChargePoint network subscription that will expire at the conclusion of this Agreement. The Site Owner must keep the Station connected to the ChargePoint Network. ChargePoint offers various other services, such as billing services. ChargePoint assesses transaction fees when collecting payments for using the charging station. These payment transaction fees are not covered by the Project and must be paid by the Site Owner. All of such services are subject to ChargePoint's standard terms and conditions.
- 7. Access to Information.** Site Owner acknowledges that Energetics will be collecting Station usage data, including charge event information ("Data"), such as when a charge event occurs, energy transferred during the charge event, duration of the plug-in event, and duration of the charging period. Site Owner acknowledges that the Data may be used by Energetics and NYSERDA for reasonable purposes, including, without limitation, analyzing usage and charging patterns, the effectiveness of infrastructure put in place to meet the needs of drivers of electric vehicles, and the efficacy of the Project. Using the ChargePoint station management software, Site Owner must grant rights to Energetics and NYSERDA.
- 8. Operation and Maintenance.** Site Owner shall take all reasonable measures to ensure the Station, and the facility in which it is located, shall be kept operational, clean and in good repair. Site Owner shall promptly call Energetics and ChargePoint customer service to arrange for the repair of any non-functioning charging port on the Station. Site Owner shall maintain and operate the Station for the term of this Agreement.
- 9. Publicity.** Site Owner shall provide Energetics and NYSERDA unlimited rights to take, use and publish photographs of the Station and Host Site, as well as any information related to the Project, which may be included on printed materials or posted on websites.

10. **Ownership.** Title to the Station shall vest in Site Owner, provided the Site Owner complies with all terms of this Agreement. Energetics retains a reversionary right to the charging stations in the event that the Site Owner fails to comply with the terms in this Agreement. Notwithstanding the fact that Site Owner is being provided the Station through the Project, the Site Owner acknowledges that Energetics or NYSERDA may reclaim title to the Station in the event (i) Site Owner does not comply with its obligations under this Agreement or (ii) it becomes illegal for the Site Owner to hold title to the Station. In the event that it becomes illegal for the Site Owner to hold title to the Station, Site Owner will reasonably cooperate in finding alternative owners for the Station.
11. **No Right to Remove, Move or Sell the Station.** The Station may not be sold, retired, disposed of, removed or moved from its place of installation, prior to the conclusion of this Agreement, without the prior written consent of Energetics and NYSERDA.
12. **Failure to Comply with Terms of the Program.** In the event that Site Owner fails to comply with any term in this Agreement, Energetics shall provide a notice requesting that the Site Owner address the issue to comply with the Agreement terms. If Site Owner is not in compliance with the Agreement terms within thirty (30) calendar days of receiving a notice from Energetics, Energetics reserves the right to repossess the Station provided under the Project. The Site Owner shall also be subject to the recapture of funds provided by NYSERDA under this Project. Recapture payment for any charging port placed out of service or under an Agreement for which the Site Owner fails to comply prior to the end of this Agreement shall be pro-rated as follows: $\$4,000 * (\text{expected \# of operational months} - \text{actual \# of months the charging port properly operated}) / \text{expected \# of operational months}$. The expected number of operational months is determined to be the time length between install date and the end of this Agreement.
13. **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 Energetics, NYSERDA, and the Site Owner.
14. **Waiver.** Either Party's failure at any time to require the other Party's performance of any obligation under this Agreement will in no way affect the full right to require such performance at any time thereafter. Either Party's waiver of a breach of any provision of this Agreement will not constitute a waiver of the provision itself. Either Party'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 an authorized representative of Energetics, the Site Owner, and NYSERDA. Any such waiver will be effective only with respect to the specific instance and for the specific purpose given.
15. **Applicable law.** This Agreement will be construed, and performance will be determined, according to the laws of the State of New York without reference to such state's principles of conflicts of law. Installation of the Station, and its operation, will be conducted in compliance with all local, New York State and federal laws and regulations.
16. **Assignment.** Site Owner may not assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of Energetics and NYSERDA.
17. **Priority.** To the extent of any conflict or inconsistency between the terms and conditions of this Agreement and any other Project document, this Agreement shall prevail.
18. **NYSERDA Requirements.** The following requirements are imposed upon the Site Owner under and pursuant to the NYSERDA's terms of the Project:
 - a. NYSERDA must approve the proposed location for the installation of Site Owner's Station prior to the installation. The following attachments have been reviewed and approved by the Site Owner:
 - i. Attachment C: Site plans and design work, and
 - ii. Attachment D: Quotes for all site installation expenses.
 - b. Prior to NYSERDA approval of the Host Site for Station installation, the Site Owner must also help procure:
 - i. Letter of approval for the design package from the Authority Having Jurisdiction over the Host Site, and
 - ii. Letter of support from the Host Site's community.
 - c. As part of the Station installation and provisioning, the Site Owner must collaborate with the Installer to complete:
 - i. Approval from local agencies of the installation prior to provisioning, and
 - ii. Confirmation by each site owner or designee that he/she has been trained in the operation, care and use of the Station.
 - d. Site Owner acknowledges and agrees that NYSERDA shall have no liability to the Site Owner relating to the installation and operation of the charging stations.
 - e. Site Owner shall, at its sole cost and expense, throughout the term of the Agreement maintain insurance in the following types and amounts: general liability insurance for bodily injury liability, including death and property

damage liability, incurred in connection with the performance of the Agreement, with minimum limits of \$1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, \$1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$1,000,000 in respect of claims arising out of property damage in any one accident or disaster.

- f. Site Owner shall permit applicable NYSERDA approved signage with the Station.
- g. The Site Owner hereby acknowledges that NYSERDA and the State of New York are intended third party beneficiaries of the Project.

19. Indemnification. Site Owner and Energetics agree to indemnify and hold each other, and the officers, directors, trustees, employees, agents and affiliates of each other harmless from and against any and all claims, actions, proceedings, costs, liabilities, losses and expenses (including, but not limited to, attorneys' fees) suffered or incurred by the indemnified parties and/or third parties resulting from or arising out of either party's negligent or intentional acts which result in damage to property or injury to person.

Site Owner agrees to indemnify NYSERDA, its officers, directors, trustees, employees, agents and affiliates harmless from and against any and all claims, actions, proceedings, costs, liabilities, losses and expenses (including, but not limited to, attorneys' fees) suffered or incurred by the indemnified parties and/or third parties resulting from or arising out of either party's negligent or intentional acts which result in damage to property or injury to person.

20. Responsibilities and Costs. The Project will provide the following items to the Site Owner upon acceptance of this Agreement and NYSERDA approval of the Host Site:

- a. One (1) ChargePoint CT4021 (bollard mount) or CT4023 (wall mount) dual head Level 2 Commercial Charging Station including shipping and Limited Product Warranty,
- b. ChargePoint network subscription from installation date to the end of this Agreement
- c. Site validation and station activation (ChargePoint requirements)
- d. Installation costs as follows:
 - i. For pedestal-mount systems: concrete footer, including delivery, plus \$1,000 towards the installation expenses performed by the Installer
 - ii. For wall-mount systems: \$2,000 towards the installation expenses performed by the Installer
- e. Up to \$500 towards the repair of Station for the first product malfunction occurring outside of the Limited Product Warranty that was not caused by neglect on behalf of the Site Host

To participate in this Project, the Site Owner must provide:

- a. Installation expenses (either by paying the Installer or other installation work in collaboration with the Installer) beyond those provided by the Project to complete the Station installation
- b. Electricity to operate the Station
- c. Operation and maintenance of the Station to sustain functionality throughout the duration of this Agreement

Energetics Incorporated

Site Owner

By: _____
(Signature)

By: _____
(Signature)

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____