

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **October 10, 2013**

**Car Charging Group, Inc.**

(Exact name of registrant as specified in its charter)

**Nevada**

(State or other jurisdiction of incorporation)

**333-149784**

(Commission File Number)

**03-0608147**

(IRS Employer Identification No.)

**1691 Michigan Avenue, Suite 601**

**Miami Beach, Florida 33139**

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: **(305) 521-0200**

**N/A**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425).
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17CFR240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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## Cautionary Note on Forward-Looking Statements

This Current Report on Form 8-K (this “Report”) and any related statements of representatives and partners of the Company contain, or may contain, among other things, certain “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Such forward-looking statements involve significant risks and uncertainties. Such statements may include, without limitation, statements with respect to the Company’s plans, objectives, projections, expectations and intentions and other statements identified by words such as “projects,” “may,” “will,” “could,” “would,” “should,” “believes,” “expects,” “anticipates,” “estimates,” “intends,” “plans,” or similar expressions. These statements are based upon the current beliefs and expectations of the Company’s management and are subject to significant risks and uncertainties, including those detailed in the Company’s filings with the Securities and Exchange Commission (the “SEC”). Actual results may differ significantly from those set forth in the forward-looking statements. These forward-looking statements involve certain risks and uncertainties that are subject to change based on various factors (many of which are beyond the Company’s control). The Company undertakes no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by applicable law.

## Item 1.01 Entry into a Material Definitive Agreement.

### Blink Acquisition

#### *Asset Purchase Agreement*

On October 16, 2013, Blink Acquisition LLC, a Florida Limited Liability Company (“Blink Acquisition”) and wholly owned subsidiary of Car Charging Group, Inc. (the “Company”), closed on an Asset Purchase Agreement (the “Asset Purchase Agreement”), dated October 10, 2013, with ECOTality, Inc., a Nevada corporation, Electronic Transportation Engineering Corporation, an Arizona corporation, ECOTality Stores, Inc., a Nevada corporation, ETEC North, LLC, a Delaware limited liability company, The Clarity Group, Inc., an Arizona corporation, and G.H.V. Refrigeration, Inc., a California corporation, (each, a “Seller” and collectively, the “Sellers” or “ECOTality”) (the “Acquisition”), for the acquisition of the Blink Network, and certain assets and liabilities relating to the Blink Network.

The Acquisition was consummated pursuant to the terms of the Asset Purchase Agreement between Blink Acquisition and the Sellers, dated October 10, 2013. The purchase price was initially determined through arms-length negotiation between the parties and was subject to certain contingencies, including the approval of the United States Bankruptcy Court for the District of Arizona (the “Court”). In connection with the approval process, a court-ordered auction was conducted on October 8, 2013. The Company made the prevailing bid, which was approved by the Court on October 9, 2013.

Pursuant to the court-approved bid, the Company agreed to acquire the Seller’s assets for approximately \$3,335,000 to be delivered at closing, and payment of certain liabilities of the Sellers under certain assumed contracts. The Seller delivered an Assignment and Assumption Agreement, an IP Assignment and Assumption Agreement and a Bill of Sale executed by each Seller relating to the Blink Assets (defined below).

The Company paid the cash purchase price for the Acquisition with the funds acquired pursuant to the Securities Purchase Agreement described below.

#### *Description of Blink Assets*

The assets purchased in the Acquisition (the “Blink Assets”) include, but are not limited to, all right, title and interest in the Blink Network and all Blink Network-related assets of ECOTality, a clean electric transportation and storage technology firm. The Blink Network is a turnkey electric vehicle (“EV”) charging station network operating system for EV charging stations across the country. The Blink Assets include all of Blink’s charging station inventory of 2746 Level II and 191 DC fast charging stations, as well as over 12,750 installed charging stations. Blink Acquisition will also assume all Blink-related Intellectual Property, consisting of but not limited to, registered trademarks and patents in the United States and abroad.

#### *Description of The EV Project*

The Company will now work with the U.S. Department of Energy (the “DoE”) to develop a plan to complete “The EV Project”, for which ECOTality had previously served as the project manager. The project is funded by the DoE through a federal stimulus grant of \$114,800,000, made possible by the American Recovery and Reinvestment Act (“ARRA”). The grant was matched by private investment, bringing the total value of the project to approximately \$230,000,000. ECOTality oversaw the installation of approximately 12,700 commercial and residential Blink charging stations in 16 cities and major metropolitan areas in six states, as well as in the District of Columbia.

## Financing

On October 11, 2013, in connection with the Acquisition, the Company entered into a Securities Purchase Agreement (the “Securities Purchase Agreement”) with Eventide Gilead Fund (the “Purchaser”) for an aggregate of \$5,000,000 (the “Aggregate Subscription Amount”). Pursuant to the Securities Purchase Agreement, the Company issued the following to the Purchaser: (i) 7,142,857 shares (the “Shares”) of the Company’s common stock, par value \$0.001, valued at \$0.70 per share (the “Common Stock”); and (ii) warrants (the “Warrants”) to purchase an aggregate of 7,142,857 shares of Common Stock (the “Warrant Shares”) for an exercise price of \$1.00 per share.

#### *Warrants*

The Warrants issued in the Securities Purchase Agreement, are exercisable for an aggregate of 7,142,857 shares of the Company's Common Stock for a period of five years from the original issue date. The exercise price for the Warrant Shares is \$1.00 per share.

## Registration Rights Agreement

In connection with the sale of the Securities Purchase Agreement, the Company entered into a registration rights agreement (the “Registration Rights Agreement”) with the Purchasers, pursuant to which the Company agreed to register all of the Shares and Warrant Shares (the “Registrable Securities”) on a Form S-1 registration statement (the “Registration Statement”) to be filed with the SEC within 30 calendar days following the Closing Date (the “Filing Deadline”) and to use best efforts to cause the Registration Statement to be declared effective under the Securities Act within 60 days following the Closing Date (or, in the event of a “full review” by the SEC, within 120 calendar days following the Closing Date) (the “Effectiveness Deadline”). If the Company does not meet the Filing Deadline or the Effectiveness Deadline, the Company will have to pay the Purchaser a penalty equal to 1% of the Aggregate Subscription Amount.

The foregoing description of the terms of the Asset Purchase Agreement, Securities Purchase Agreement, the form of Warrant, and the Registration Rights Agreement do not purport to be complete and are qualified in their entirety by reference to the provisions of such agreements filed as exhibits 2.1, 10.1, 4.1, and 10.2 to this Current Report on Form 8-K (this “Report”).

### Item 2.01 Acquisition or Disposition of Assets.

Reference is made to the disclosure set forth under Items 1.01 of this Report, which disclosure is incorporated herein by reference.

### Item 3.02 Unregistered Sales of Equity Securities

Reference is made to the disclosure set forth under Items 1.01 and 2.01 of this Report, which disclosure is incorporated herein by reference.

The Company issued the Shares and Warrant in reliance upon the exemption from registration contained in Section 4(2) of the Securities Act of 1933, as amended (the “Securities Act”) and Rule 506(b). The Company’s reliance on Section 4(2) of the Securities Act was based upon the following factors: (a) the issuance of the securities was an isolated private transaction by us which did not involve a public offering; (b) there were only a limited number of offerees; (c) there were no subsequent or contemporaneous public offerings of the securities by the Company; (d) the securities were not broken down into smaller denominations; and (e) the negotiations for the sale of the stock took place directly between the offeree and the Company. The Company engaged a placement agent for this offering for a total fee of \$500,000 and warrants to purchase 714,285 shares of the Company’s common stock with an exercise price of \$0.87.

### Item 7.01 Regulation FD Disclosure

The information contained in this Item 7.01, together with the exhibits attached hereto, is being furnished and shall not be deemed to be “filed” for purposes of Section 18 of, or otherwise regarded as filed under, the Exchange Act of 1934, nor shall it be deemed incorporated by reference into any filing under the Securities Act or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

On October 10, 2013, the Company conducted a conference call with its investors regarding its successful bid to acquire the Blink Assets. The transcript of the conference call is furnished as exhibit 99.1 to this Report.

### Item 8.01 Other Events.

#### Press Release

On October 10, 2013, the Company issued a press release announcing its winning bid to purchase the Blink Assets, and on October 17, 2013 the Company issued a press release announcing the acquisition of ECotality’s Blink Assets, a copy of which are filed as exhibits 99.2 and 99.3, respectively, to this Report.

### Item 9.01 Financial Statement and Exhibits

(d) Exhibits

<b>Exhibit Number</b>	<b>Description</b>
2.1	Asset Purchase Agreement, dated October 10, 2013, by and among ECotality, Inc., Electronic Transportation Engineering Corporation, ECotality Stores, Inc., ETEC North, LLC, The Clarity Group, Inc., G.H.V. Refrigeration, Inc., and Blink Acquisition LLC.
4.1	Form of Warrant.
10.1	Securities Purchase Agreement, dated October 11, 2013.
10.2	Registration Rights Agreement, dated October 11, 2013.
99.1	Transcript of October 10, 2013 Investor Conference Call
99.2	Press Release, dated October 10, 2013
99.3	Press Release, dated October 17, 2013

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: October 17, 2013

Car Charging Group, Inc.

By: */s/ Michael D. Farkas* \_\_\_\_\_

Michael D. Farkas  
Chief Executive Officer



# Asset Purchase Agreement

dated as of

October 10, 2013

by and among

ECotality, Inc.

Electronic Transportation Engineering Corporation

ECotality Stores, Inc.

ETEC North, LLC

The Clarity Group, Inc.

and

G.H.V. Refrigeration, Inc.

as the Sellers

and

Blink Acquisition LLC

as Buyer

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is dated as of October 10, 2013 (the “**Agreement**”) by and among ECotality, Inc., a Nevada corporation, Electronic Transportation Engineering Corporation, an Arizona corporation, ECotality Stores, Inc., a Nevada corporation, ETEC North, LLC, a Delaware limited liability company, The Clarity Group, Inc., an Arizona corporation, and G.H.V. Refrigeration, Inc., a California corporation, (each, a “**Seller**” and collectively, the “**Sellers**”) and Blink Acquisition LLC, a Florida Limited Liability Company (the “**Buyer**”).

### WITNESSETH:

**WHEREAS**, the Sellers own the Purchased Assets (as defined below);

**WHEREAS**, the Sellers have sought relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) by filing cases (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the District of Arizona (the “**Bankruptcy Court**”) on September 16, 2013; and

**WHEREAS**, Buyer desires to purchase the Purchased Assets (as defined below) and to assume the Assumed Liabilities (as defined below), upon the terms and subject to the conditions set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein, the parties to this Agreement agree as follows:

### ARTICLE 1

#### DEFINITIONS

##### SECTION 1.01 *Definitions.*

(a) The following terms, as used herein, have the following meanings:

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such other Person; *provided, however*, that with respect to the Sellers, “Affiliate” shall mean only the other Sellers.

“**Assumed Contract Deadline**” means the date that is 30 days following the Closing Date.

“**Assumed Contracts**” means (a) those Contracts primarily related to the Blink Business that are (i) identified on Schedule 2.01(a) hereto as Assumed Contracts and (ii) otherwise identified in writing to Sellers by the Buyer as Assumed Contracts prior to the Closing Date, and (b) those Undesignated Contracts identified in writing to the Sellers by Buyer as Assumed Contracts prior to the Assumed Contract Deadline.

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**“Assignment and Assumption Agreement”** means an assignment and assumption agreement drafted by Sellers and reasonably acceptable to Buyer.

**“Benefit Plans”** means any employee benefit plan, program, policy or arrangement currently maintained for the benefit of any current or former employee, officer or director of any Seller.

**“Bid Procedures Order”** means the order of the Bankruptcy Court entered on September 19, 2013 approving the Bidding Procedures in connection with the sale of substantially all of the Sellers’ assets.

**“Bill of Sale”** means a bill of sale with respect to the Purchased Assets, drafted by Sellers and reasonably acceptable to Buyer.

**“Blink Business”** means the business of Sellers’ ownership and operation of the Blink Chargers and the Blink Network.

**“Blink Chargers”** means the electric car battery chargers known as the Blink Chargers, including all residential as well as commercial electric car battery chargers.

**“Blink Network”** means the cloud-based operating system that provides the connection of the Blink Chargers to a central computer via cellular, Wi-Fi or other services and all hardware relating thereto.

**“Business Day”** means a day other than Saturday, Sunday or other day on which commercial banks in Phoenix, Arizona are authorized or required by law to close.

**“Carrying Costs”** means the carrying costs to Sellers of each Undesignated Contract, which costs accrue (on a per diem basis) from the Closing Date through the earlier of (a) such date as Buyer identifies such Undesignated Contract in writing to Sellers as either an Assumed Contract or an Excluded Asset, and (b) the Assumed Contract Deadline.

**“Claim”** means a claim as defined in Section 101 of the Bankruptcy Code.

**“Closing Date”** means the date of the Closing.

**“Confidentiality Agreement”** means that certain non-disclosure agreement by and between Ecotality, Inc. and Buyer dated September 19, 2013, as amended by that certain addendum between Ecotality, Inc. and Buyer dated September 24, 2013.

**“Contracts”** means agreements, contracts, leases, licenses, consensual obligations, promises and undertakings.

**“Cure Costs”** means the liabilities and obligations of the Sellers that must be paid or otherwise satisfied to cure all of the Sellers’ defaults under the Assumed Contracts at the time of the assumption by and assignment to Buyer of such Assumed Contracts as provided herein, subject to the terms herein and in the Approval Order. Nothing herein shall prevent Buyer from negotiating with any party to an Assumed Contract a Cure Cost that is satisfactory to such party.

**“IP Assignment and Assumption Agreement”** means an assignment and assumption agreement with respect to the intellectual property included in the Purchased Assets, drafted by Sellers and reasonably acceptable to Buyer.

**“Lien”** means, with respect to any property or asset, any mortgage, lien, pledge, charge, security interest or encumbrance in respect of such property or asset.

**“Material Adverse Effect”** means (i) any material adverse effect on the Purchased Assets, taken as a whole, or (ii) any material adverse effect on the ability of the Sellers to consummate the transactions contemplated by this Agreement; *provided that* the following shall not constitute a Material Adverse Effect and shall not be taken into account in determining whether or not there has been or would reasonably be expected to be a Material Adverse Effect: (A) changes in general economic conditions or securities or financial markets in general that do not disproportionately impact the Sellers, taken as a whole; (B) general changes in the industry in which the Sellers operate and not specifically relating to, or having a disproportionate effect on, the Sellers taken as a whole (relative to the effect on other persons operating in such industry); (C) any changes in law applicable to the Sellers or any of their respective properties or assets or interpretations thereof by any governmental authority which do not have a disproportionate effect on the Sellers, taken as a whole; (D) any outbreak or escalation of hostilities or war (whether declared or not declared) or any act of terrorism which do not have a disproportionate effect on the Sellers, taken as a whole; (E) any changes to the extent resulting from the announcement or the existence of, or compliance with, this Agreement and the transactions contemplated hereby (including without limitation any lawsuit related thereto or the impact on relationships with suppliers, customers, employees or others); (F) any accounting regulations or principles or changes in accounting practices or policies that the Sellers are required to adopt; (G) matters occurring in, or arising from the Chapter 11 Cases of the Sellers, including any events, occurrences, or other actions taken as a result thereof; and (H) any changes resulting from actions of the Sellers expressly agreed to or requested by the Buyer.

**“Patents”** means United States Patents Number 7,573,228 (power management between charger and airport bridge) and Number 5,548,200 (priority charging determination for multiple vehicles) and all corresponding foreign patents.

**“Permitted Liens”** means (i) Liens permitted by the Approval Order, (ii) Liens created pursuant to any Assumed Contracts; and (iii) Liens set forth on Schedule 1.01(b).

**“Person”** means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision, or an agency or instrumentality thereof.

**“Undesignated Contracts”** the Contracts primarily related to the Blink Business which Contracts have not been, prior to the Closing Date, designated by Buyer to Seller in writing as either Assumed Contracts or Excluded Assets.

(b) Each of the following terms is defined in the Section set forth opposite such term:

<b>Term</b>	<b>Section</b>
Agreement	Preamble
Approval Order	Section 5.05
Assumed Liabilities	Section 2.02
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bankruptcy Period	Section 10.05
Buyer	Preamble
Causes of Action	Schedule 2.01(b)
Chapter 11 Cases	Recitals
Closing	Section 2.07
Code	Section 7.01
Enhancements	Section 5.08
Excluded Assets	Section 2.01
Excluded Liabilities	Section 2.03
Expansion	Section 5.08
Good Faith Deposit	Section 2.06(a)
Income Tax	Section 7.01
License Agreement	Section 5.08
Patent Licensee	Section 5.08
Possible Defect Claims	Schedule 2.01(a)
Purchased Assets	Section 2.01
Purchase Price	Section 2.05
Sellers	Preamble
Tax	Section 7.01
Taxing Authority	Section 7.01
Tax Return	Section 7.01
Transfer Consent	Section 2.04
Transfer Taxes	Section 7.02
US Agreement	Section 5.07(a)
US Government	Section 5.07(a)

SECTION 1.02 *Other Definitions and Interpretative Matters.* Unless otherwise indicated to the contrary in this Agreement by the context or use thereof:

(a) When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a day other than a Business Day, the period in question shall end on the next succeeding Business Day. Any reference in this Agreement to days (but not Business Days) means to calendar days.

(b) Any reference in this Agreement to \$ means U.S. dollars.

(c) Unless the context otherwise requires, all capitalized terms used in the Exhibits and Schedules shall have the respective meanings assigned in this Agreement. All Exhibits and Schedules attached or annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein.

(d) Any reference in this Agreement to gender includes all genders, and words importing the singular number also include the plural and vice versa.

(e) The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any “**Section**” or “**Article**” are to the corresponding Section or Article of this Agreement unless otherwise specified.

(f) Words such as “**herein**,” “**hereof**” and “**hereunder**” refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

(g) The word “**including**” or any variation thereof means “**including, without limitation,**” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

(h) References to laws, rules and regulations shall include such laws, rules and regulations as they may from time to time be amended, modified or supplemented.

(i) Reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made

(j) References to any Person shall include its permitted successors and assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

## ARTICLE 2

### PURCHASE AND SALE

**SECTION 2.01** *Purchase and Sale.* Except as otherwise provided below, upon the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from the Sellers and each Seller agrees to sell, convey, transfer, assign and deliver, or cause to be sold, conveyed, transferred, assigned and delivered, to Buyer at the Closing, free and clear of all Liens and Claims, other than Assumed Liabilities and Permitted Liens, all of such Sellers’ right, title and interest in, to and under substantially all of the properties and assets of the Sellers used primarily in the conduct of the Blink Business, including without limitation, those assets listed on Schedule 2.01(a) hereto (the “**Purchased Assets**”); *provided, that* Buyer expressly understands and agrees that, notwithstanding anything to the contrary contained in this Agreement (or the schedules, exhibits and other attachments hereto), the assets and properties of the Sellers referenced or set forth in Schedule 2.01(b) are excluded from the Purchased Assets and shall not be transferred to Buyer under this Agreement (the “**Excluded Assets**”).

SECTION 2.02 *Assumed Liabilities.* Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the time of the Closing, to assume (a) all liabilities and obligations arising from and after the Closing from or relating to the Purchased Assets and the ownership and operation thereof, (b) all liabilities and obligations arising from or relating to the Assumed Contracts and all Cure Costs relating to Assumed Contracts, (c) all Carrying Costs, and (d) the other liabilities and obligations of the Sellers set forth in Schedule 2.02 hereto ((a) through (d) collectively, the “**Assumed Liabilities**”).

SECTION 2.03 *Excluded Liabilities.* Notwithstanding any provision in this Agreement to the contrary, Buyer is assuming only the Assumed Liabilities and is not assuming any other liability or obligation of any Seller of whatever nature, whether presently in existence or arising hereafter, including without limitation those Contracts and the liabilities associated therewith, set forth or referenced on Schedule 2.03 attached hereto, as well as those Contracts of Sellers that are not identified by Buyers as Assumed Contracts as set forth herein. All such other liabilities and obligations shall be retained by and remain obligations and liabilities of the Sellers (all such liabilities and obligations not being assumed being herein referred to as the “**Excluded Liabilities**”).

SECTION 2.04 *Assignment of Contracts and Rights.* Sellers shall transfer and assign all Assumed Contracts to Buyer, and Buyer shall assume all Assumed Contracts from Sellers, as of the Closing Date (or such later date as such Contract is designated as an Assumed Contract under the terms of this Agreement) pursuant to the Approval Order, or other order of the Bankruptcy Court pursuant to the process set forth in the Bid Procedures Order. In connection with such assignment and assumption, Buyer shall pay or otherwise satisfy all Cure Costs under such Assumed Contracts. Except as to Assumed Contracts assigned pursuant to Section 365 of the Bankruptcy Code, anything in this Agreement to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign any Assumed Contract or other Purchased Asset or any right thereunder if an attempted assignment, without the consent of a third party or Governmental Authority (each, a “**Transfer Consent**”), would constitute a breach by any Seller in respect thereof. If such Transfer Consent is not obtained or such assignment is not attainable pursuant to Section 365, to the extent permitted and subject to any approval of the Bankruptcy Court that may be required, the Sellers and Buyer will cooperate in a mutually agreeable arrangement (at Buyer’s sole cost and expense) under which Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement.

SECTION 2.05 *Purchase Price.*

(a) On the terms and subject to the conditions contained herein, the purchase price (the “**Purchase Price**”) for the Purchased Assets shall consist of:

- (i) cash in the amount of \$3,335,000;
- (ii) the payment or other satisfaction of all Cure Costs; and
- (iii) the assumption of the Assumed Liabilities.

(b) At the Closing, Buyer shall pay to the Sellers the cash portion of the Purchase Price set forth in Section 2.05(a)(i) above, less the Good Faith Deposit, by wire transfer of immediately available funds to an account or accounts designated by the Sellers at least two (2) Business Days prior to the Closing Date.

SECTION 2.06 *Good Faith Deposit.*

(a) Buyer has deposited with the Sellers cash in the amount of \$166,750 (the “**Good Faith Deposit**”) to be held by Sellers in a non-interest bearing account pending the Closing or other disbursement pursuant to this Agreement and applied as provided in Section 2.06(b).

(b) The Good Faith Deposit shall be retained by the Sellers in the following circumstances: (i) at the Closing as a credit against the Purchase Price and (ii) if this Agreement is terminated pursuant to Section 9.01(b). Except as described in the previous sentence, the Good Faith Deposit shall be returned to Buyer after termination of this Agreement subject to any setoff for any claim of breach or payment due for breach by Buyer of this Agreement.

SECTION 2.07 *Closing.* The closing of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities hereunder (the “**Closing**”) shall take place at the offices of Akin Gump Strauss Hauer & Feld LLP, 2029 Century Park East, Suite 2400, Los Angeles, California 90067, on the first Business Day after the satisfaction (or waiver, as applicable) of the conditions to Closing set forth in Article 6 herein, including the entry of the Approval Order (unless such Approval Order is subject to a stay of Closing). At the Closing:

(a) Buyer shall deliver to the Sellers:

(i) the Purchase Price less the Good Faith Deposit as described in Section 2.05(b); and

(ii) the Assignment and Assumption Agreement and the IP Assignment and Assumption Agreement duly executed by Buyer.

(iii) a certificate from the Buyer as to the satisfaction of the condition, set forth in Section 6.02(a) herein, to the obligation of the Sellers to consummate the transactions contemplated by this Agreement.

(b) Sellers shall deliver to Buyer:

(i) the Assignment and Assumption Agreement, the IP Assignment and Assumption Agreement and the Bill of Sale duly executed by each applicable Seller;

(ii) a certificate of non-foreign status executed by each Seller (or, if applicable, a direct or indirect owner of a Seller) that is not a disregarded entity for U.S. federal income tax purposes, prepared in accordance with Treasury Regulation Section 1.1445-2(b); and

(iii) A certificate from the Sellers as to the satisfaction of the condition, set forth in Section 6.02(b) herein, to the obligation of the Buyer to consummate the transactions contemplated by this Agreement.

## ARTICLE 3

### REPRESENTATIONS AND WARRANTIES OF SELLERS

Each Seller represents and warrants to Buyer:

SECTION 3.01 *Organization and Qualification.* Each Seller has been duly organized and is validly existing and in good standing under the laws of its respective jurisdiction of incorporation, with the requisite power and authority to own its properties and conduct its business as currently conducted in all material respects. Each Seller, as applicable, has been duly qualified as a foreign corporation or organization for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except to the extent that the failure to be so qualified or be in good standing has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 3.02 *Authorization.* The execution, delivery and performance by the Sellers of this Agreement and the consummation of the transactions contemplated hereby are within the Sellers' corporate or limited liability company powers, as applicable, and, subject to the Bankruptcy Court's entry of the Approval Order, have been duly authorized by all necessary corporate or limited liability company action, as applicable, on the part of each Seller.

SECTION 3.03 *Execution and Delivery; Enforceability.* This Agreement has been duly and validly executed and delivered by each Seller, and, subject to the Bankruptcy Court's entry of the Approval Order, will constitute the valid and binding obligation of each Seller, enforceable against each such Seller in accordance with its terms.

SECTION 3.04 *Exclusivity of Representations and Warranties.* The representations and warranties made by the Sellers in this Agreement are in lieu of and are exclusive of all other representations and warranties, including, without limitation, any implied warranties. The Sellers hereby disclaim any such other or implied representations or warranties, notwithstanding the delivery or disclosure to the Sellers or their officers, directors, employees, agents or representatives of any documentation or other information (including any financial projections or other supplemental data not included in this Agreement).

## ARTICLE 4

### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to each Seller that:

SECTION 4.01 *Existence and Power.* Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of Florida and has all requisite powers and all material governmental licenses, authorizations, permits, consents and approvals required to carry on its business as now conducted.

SECTION 4.02 *Authorization*. The execution, delivery and performance by Buyer of this Agreement and the consummation of the transactions contemplated hereby are within the limited liability company powers of Buyer and have been duly authorized by all necessary limited liability company action on the part Buyer.

SECTION 4.03 *Execution and Delivery; Enforceability*. This Agreement has been duly and validly executed and delivered by Buyer, and constitutes the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

SECTION 4.04 *No Conflicts*. The execution, delivery and performance by Buyer of this Agreement and the consummation by Buyer of the transactions contemplated hereby shall not, with or without the giving of notice or lapse of time, (i) violate any provision of the organizational documents of Buyer, (ii) violate any law to which Buyer is subject, or (iii) conflict with, or result in a breach or default under, any term or condition of any other agreement or other instrument to which Buyer is a party or by which Buyer is bound.

SECTION 4.05 *Sufficiency of Funds*. Buyer has, and will continue to have at all times prior to and at the Closing, sufficient cash or other sources of immediately available funds to enable it to make payment of the Purchase Price at Closing.

SECTION 4.06 *Adequate Assurances Regarding Assumed Contracts*. Buyer is and will be capable of satisfying the conditions contained in sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assumed Contracts.

SECTION 4.07 *Inspections; No Other Representations*. Buyer is an informed and sophisticated purchaser, and has engaged expert advisors, experienced in the evaluation and purchase of property and assets such as the Purchased Assets as contemplated hereunder. Buyer has undertaken such investigation and has been provided with and has evaluated such documents and information as it has deemed necessary to enable it to make an informed and intelligent decision with respect to the execution, delivery and performance of this Agreement. Buyer acknowledges that the Sellers have given Buyer complete and open access to the Purchased Assets and the key employees, documents and facilities of the Sellers with respect to the Purchased Assets. Buyer agrees, warrants and represents that (a) Buyer is purchasing the Purchased Assets on an “AS IS,” “WHERE IS” and “WITH ALL FAULTS” basis based solely on Buyer’s own investigation of the Purchased Assets (*provided, that, it is not intended that by acquiring the Purchased Assets from Sellers on an “AS-IS,” “WHERE-IS” and “WITH ALL FAULTS” basis, the Buyer is releasing or impairing in any way any Possible Defect Claim that Buyer is acquiring as a Purchased Asset hereunder; and (b) except as set forth in this Agreement, neither Sellers nor any director, officer, manager, employee, agent, consultant, or representative of Sellers have made any warranties, representations or guarantees, express, implied or statutory, written or oral, respecting the Purchased Assets, any part of the Purchased Assets, the financial performance of the Purchased Assets, or the physical condition of the Purchased Assets. Buyer further acknowledges that the consideration for the Purchased Assets specified in this Agreement has been agreed upon by Sellers and Buyer after good-faith arms’-length negotiation in light of Buyer’s agreement to purchase the Purchased Assets “AS IS,” “WHERE IS” and “WITH ALL FAULTS.”* Buyer agrees, warrants and represents that, except as set forth in this Agreement, Buyer has relied, and shall rely, solely upon its own investigation of all such matters, and that Buyer assumes all risks with respect thereto. **Except as set forth in this Agreement, Sellers hereby disclaim all liability and responsibility for any representation, warranty, projection, forecast, statement, or information made, communicated, or furnished (orally or in writing) to Buyer or its Affiliates or representatives (including any opinion, information, projection, or advice that may have been or may be provided to Buyer by any director, officer, manager, employee, agent, consultant, or representative of Sellers). Sellers make no representations or warranties to Buyer regarding the probable success, profitability or value of any of the Purchased Assets.**



## ARTICLE 5

### COVENANTS

SECTION 5.01 *Confidentiality*. Buyer agrees that prior to the Closing Date and after any termination of this Agreement; the Confidentiality Agreement shall remain in full force and effect. After the Closing has occurred, the Confidentiality Agreement shall be terminated to the extent relating to the Purchased Assets and Assumed Liabilities, but shall, with respect to any of the Excluded Assets and Excluded Liabilities remain in full force and effect.

SECTION 5.02 *Reasonable Best Efforts; Further Assurances*. Subject to the terms and conditions of this Agreement, Buyer and the Sellers will use their reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable laws and regulations to consummate the transactions contemplated by this Agreement.

SECTION 5.03 *Public Announcements*. Absent the prior written consent of the other parties, such consent to not be unreasonably withheld, delayed or conditioned, neither the Sellers nor Buyer shall make any press release, public announcement, securities filing or public statement concerning this Agreement or the transactions contemplated hereby, except as and to the extent that any such party shall be required to make any such disclosure by applicable law, and then only after giving the other party hereto an opportunity to review, if possible under the circumstances, such disclosure and consider in good faith the comments of the other party hereto. For the avoidance of doubt, nothing herein shall be construed to prohibit or restrict any disclosure or announcement which the Sellers make in connection with the Chapter 11 Cases.

SECTION 5.04 *Assurances Regarding Assumed Contracts; Payment of Cure Costs; Performance of Assumed Contracts; Payment of Carrying Costs*. With respect to each Assumed Contract, Buyer shall provide adequate assurance of the future performance by Buyer of such Assumed Contract. Buyer shall, at or prior to the assumption of each Assumed Contract, pay or otherwise satisfy all Cure Costs under such Assumed Contract so that each such Assumed Contract may be assumed by Seller and assigned to Buyer in accordance with the provisions of section 365 of the Bankruptcy Code. Buyer shall (i) from and after the Closing Date (or such later date as such Contract becomes an Assumed Contract) assume all obligations and liabilities of Seller under the Assumed Contracts that accrue from and after the date such Assumed Contracts are assumed, (ii) pay all Carrying Costs with respect to all Undesignated Contracts, (iii) from and after the assumption thereof take all actions necessary to satisfy its obligations and liabilities under the terms and conditions of each of the Assumed Contracts, and (iv) indemnify, defend and hold Sellers harmless from and against any damages, losses, costs, expenses and other liabilities arising out of a breach of this Section 5.04 or any of Buyer's other covenants or obligations contained in this Agreement. Unless otherwise agreed to in writing among the Debtors and the Buyer after the Closing, upon the designation of any Undesignated Contract as either an Assumed Contract or an Excluded Asset, Sellers shall notify Buyer in writing of the applicable Carrying Costs (and provide any reasonable documentation requested by Buyer in connection therewith) and Buyer shall promptly pay directly all such Carrying Costs.

SECTION 5.05 *Bankruptcy Court Approval.* Prior to the execution of this Agreement, the Sellers have filed an approval motion with the Bankruptcy Court seeking entry of an order (the “**Approval Order**”) which, among other things, (i) approves this Agreement, (ii) authorizes the sale of the Purchased Assets to Buyer pursuant to Section 363 of the Bankruptcy Code, (iii) authorizes the assumption and assignment to Buyer of the Assumed Contracts pursuant to Section 365 of the Bankruptcy Code and (iv) authorizes the other transactions contemplated by this Agreement, which Approval Order shall not be inconsistent with the terms of this Agreement. Buyer agrees that it will promptly take all actions as are reasonably requested by Sellers to assist in obtaining the Bankruptcy Court's entry of the Approval Order, including, without limitation, furnishing affidavits, financial information or other documents or information for filing with the Bankruptcy Court and making Buyer's employees and representatives available to testify before the Bankruptcy Court.

SECTION 5.06 *Books and Records.* From and after the Closing Date, Buyer agrees to furnish or cause to be furnished to Sellers or Sellers' representatives, upon request, as promptly as practicable, such information and assistance (including, without limitation, access to books and records and employees, if applicable) relating to the Excluded Assets (including without limitation, the Causes of Action included in the Excluded Assets), as Sellers and/or their representative may deem necessary or advisable in connection with their ownership of the Excluded Assets and the pursuit of the Causes of Action included in the Excluded Assets. Buyer agrees to retain all books and records related to the Excluded Assets in its possession as of the Closing Date for a period of at least six years following the Closing Date. Sellers shall have the right to inform Buyer thirty (30) days before the expiration of the six (6) years that they elect to take possession, at their own expense, of such books and records.

SECTION 5.07 *Covenants Regarding US Agreements.* The Buyer acknowledges and agrees as follows:

(a) Notwithstanding anything to the contrary contained in this Agreement or any schedule, exhibit or attachment hereto, the Sellers' agreements related to the Blink Business (the “**US Agreements**”) with the United States of America (the “**US Government**”) shall be Assumed Contracts. The US Agreements may not be assumed or assigned without the consent of the US Government. The Buyer shall engage in good faith negotiations with the US Government to achieve a novation of the US Agreements. Good faith negotiations shall include support in filing any requests with the Bankruptcy Court necessary to novate the US Agreements in accordance with the consent requirements set forth below.

(b) The Buyer shall comply with the requirements set forth in the DOE Novation Checklist previously made available to Buyer, including any amendments thereto, in order to obtain consent from the US Government to a novation of any US Agreement before it may be assumed or assigned by the Sellers. The Buyer shall take all steps necessary and as requested by the US Government to pursue final novation of the US Agreements.

(c) The US Government has agreed that the Sellers are authorized to transfer the US Agreements and any related assets funded by the US Government to the Buyer pursuant to this Agreement subject, in all respects, to the rights of the US Government therein. The US Government has agreed that, upon and after the transfer of such US Agreements and related assets hereunder, it will not assert any claims relating thereto against the Sellers or their property, including any proceeds resulting from the transactions contemplated by this Agreement; *provided, however* that the US Government may assert any unsecured claims that it may have with regard to any issues arising from invoices submitted by Sellers to the US Government pursuant to the US Agreements, regarding which claims the Sellers reserve all rights.

(d) In the event that Buyer fails to obtain consent from the US Government to novate the US Agreements, the US Government shall be authorized to exercise its rights with respect thereto, including without limitation those arising under 10 C.F.R. § 600.321, against the Buyer. For the avoidance of doubt, in the event that Buyer's novation of a US Agreement fails for any reason, the Buyer shall be liable to the US Government under 10 C.F.R. § 600.321 in an amount equal to the Sellers' would-be liability to the US Government as of the Closing Date for a disposition under 10 C.F.R. § 600.321.

**SECTION 5.08 License Agreements.** The Buyer shall acquire all of the Sellers' right and title in and to the Patents included in the Purchased Assets in connection with the transactions contemplated hereby. Buyer acknowledges and agrees that Buyer's execution and delivery of a license agreement with respect to the Patents (the "**License Agreement**") is an express condition to the consummation of the transactions contemplated by this Agreement. Under the License Agreement, Buyer shall grant to the purchaser of the Sellers' Minit-Charger business ("**Patent Licensee**"), which transaction shall be consummated on the same date as the consummation of the transactions hereunder, a license to make, have made, use, sell, offer to sell, and otherwise practice the Patents under the terms set forth herein. Specifically, the license granted under the License Agreement shall provide (a) for a term, which shall be for the duration of the Patents (the expiration of one Patent shall not impact the license to the non-expired Patent), (b) that such license is fully-paid, royalty-free and worldwide (as appropriate), (c) scope of use by Patent Licensee shall be limited to the Minit-Charger business of Sellers as currently conducted and proposed to be conducted, including any reasonable and foreseen expansions thereof, as of the date of this Agreement ("**Expansion**") (license shall be exclusive with respect to this field of use), provided that such Expansion shall not be in competition with the Blink Business; (d) that, as between the parties, any enhancements and/or improvements made by or for any party concerning the Patents ("**Enhancements**") shall be owned exclusively by the Buyer and shall automatically be included in the license granted to Patent Licensee under the License Agreement, (e) that, as between the parties, the Buyer shall have the right to seek patent or other intellectual property protection for all Enhancements, (f) for the right of the Patent Licensee to sublicense any of its rights under the License Agreement, consistent with the rights granted therein, provided that no sublicensee shall be a competitor of the Blink Business, (g) for the right of the Patent Licensee to transfer or assign the License Agreement in connection with its sale of the Minit-Charger business, provided that such sale is not to a competitor of the Blink Business; and (h) Buyer shall not, during the term of the License Agreement, authorize others to, use, sell, offer to sell, and otherwise practice the Patents to compete with the Patent Licensee in the Minit-Charger business. The License Agreement shall otherwise be in form and substance reasonably satisfactory to Seller, the Buyer and the Patent Licensee.

## ARTICLE 6

### CONDITIONS TO CLOSING

SECTION 6.01 *Conditions to the Obligations of Sellers.* The obligations of Sellers to consummate the transactions contemplated by this Agreement are subject to the satisfaction (unless waived in writing by Sellers) of each of the following conditions on or prior to the Closing Date:

(a) The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date.

(b) Buyer shall have performed and complied in all material respects with all covenants and obligations under this Agreement to be performed or complied with by it on or prior to the Closing Date.

(c) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation or non-appealable judgment, decree, injunction or other order that is in effect on the Closing Date and prohibits the consummation of the Closing.

(d) The Bankruptcy Court shall have entered the Approval Order and such Approval Order shall not be subject to a stay pending appeal.

SECTION 6.02 *Conditions to the Obligation of Buyer.* The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the satisfaction (unless waived in writing by Buyer) of each of the following conditions on or prior to the Closing Date:

(a) The representations and warranties of the Sellers contained in this Agreement, disregarding all materiality and Material Adverse Effect qualifications contained therein, shall be true and correct on and as of the Closing Date, except for any failure to be true and correct that, together with all other such failures, has not had, and would not reasonably be expected to have, a Material Adverse Effect.

(b) Each Seller shall have performed and complied with all covenants and obligation under this Agreement, disregarding all materiality and Material Adverse Effect qualifications contained therein, to be performed or complied with by it on or prior to the Closing Date, except for any failure to perform and comply that, together with all other such failures, has not had, and would not reasonably be expected to have, a Material Adverse Effect.

(c) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation or non-appealable judgment, decree, injunction or other order that is in effect on the Closing Date and prohibits the consummation of the Closing.

(d) The Bankruptcy Court shall have entered the Approval Order and such Approval Order shall not be subject to a stay pending appeal.

## ARTICLE 7

### TAX MATTERS

SECTION 7.01 *Tax Definitions.* The following terms, as used herein, have the following meanings:

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Income Tax**” means any federal, state, local or non-U.S. tax based on or measured by reference to net income, including any interest, penalties, or additions thereto, whether disputed or not.

“**Tax or Taxes**” means (i) any tax, governmental fee, levy, duty, tariff, impost, custom, license, payroll, employment, excise, severance, premium, windfall profits, environmental (including taxes under Code § 59A), sales, franchise, profits, pension, social security (or similar), unemployment, capital stock, or other like assessment, charge or premium of any kind whatsoever (including, but not limited to, withholding on amounts paid to or by any Person), together with any interest, penalty, addition to tax or additional amount imposed by any governmental authority (a “**Taxing Authority**”) responsible for the imposition of any such tax (federal, state, local or non-U.S.), or (ii) liability for the payment of any amounts of the type described in (i) as a result of being party to any agreement or any express or implied obligation to indemnify any other Person, or as transferee, successor, guarantor or surety.

“**Tax Return**” means any return, declaration, report, claim for return, or information return or statement relating to Taxes; including any schedule or attachment thereto, and including any amendment thereof.

SECTION 7.02 *Tax Cooperation; Allocation of Taxes.*

(a) Buyer and the Sellers agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Purchased Assets (including, without limitation, access to books and records) as is reasonably necessary for the preparation and filing of all Tax Returns, the making of any election relating to Taxes, the preparation for any audit by any Taxing Authority, and the prosecution or defense of any claim, suit or proceeding relating to any Tax. Buyer shall retain all books and records with respect to Taxes pertaining to the Purchased Assets for a period of at least six years following the Closing Date. Thirty (30) days before the end of such period, Sellers may provide the Buyer with written notice, during which thirty (30) day period the Sellers can elect to take possession, at its own expense, of such books and records. If the Buyers do not receive any notice, they may destroy any such books and records at the end of the six (6) year period. The Sellers and Buyer shall cooperate with each other in the conduct of any audit or other proceeding relating to Taxes involving the Purchased Assets. Notwithstanding any provision to the contrary in this Agreement, it is understood and agreed between Sellers and Buyer that the Sellers shall be wound up and dissolved as soon as practicable following Closing.

(b) To the extent not exempt under Section 1146(a) of the Bankruptcy Code in connection with the Chapter 11 Cases, all excise, sales, use, value added, registration stamp, recording, documentary, conveyance, franchise, property, transfer and similar Taxes, levies, charges and fees, whether federal, state, local or non-U.S., including any interest and penalties (collectively, “**Transfer Taxes**”) incurred in connection with the transactions contemplated by this Agreement shall be Excluded Liabilities; however, Buyer will cooperate in assisting Sellers with any appropriate resale exemption certifications and other similar necessary documentation.

SECTION 7.03 *Purchase Price Allocation.* Buyer shall prepare an allocation of the Purchase Price (and all other capitalized costs) among the Purchased Assets in accordance with Code §1060 and the Treasury regulations thereunder (and any similar provision of state, local, or non-U.S. law, as appropriate), which allocation shall be binding upon Sellers. Buyer shall deliver such allocation to Sellers within 180 days after the Closing Date. Sellers and Buyer and their Affiliates shall report, act, and file Tax Returns (including, but not limited to Internal Revenue Service Form 8594) in all respects and for all purposes consistent with such allocation prepared by Sellers. Buyer shall timely and properly prepare, execute, file, and deliver all such documents, forms, and other information as Sellers may reasonably request in preparing such allocation. Neither Sellers nor Buyer shall take any position for Tax purposes that is inconsistent with such allocation unless required to do so by applicable law.

## ARTICLE 8

### SURVIVAL

SECTION 8.01 *Survival.* The (a) representations and warranties of the parties and (b) covenants and agreements of the parties that by their terms are to be performed before Closing, contained in this Agreement or in any certificate or other writing delivered in connection herewith shall not survive the Closing. The covenants and agreements contained herein that by their terms are to be performed after Closing shall survive the Closing indefinitely except the covenants, agreements, representations and warranties contained in Article 7 shall survive until expiration of the statute of limitations applicable to the matters covered thereby (giving effect to any waiver, mitigation or extension thereof). Notwithstanding any provision to the contrary in this Agreement, it is understood and agreed between Sellers and Buyer that the Sellers shall be wound up and dissolved as soon as practicable following Closing.

ARTICLE 9

TERMINATION

SECTION 9.01 *Grounds for Termination.* This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written agreement of the Sellers and Buyer;

(b) by the Sellers, if Buyer has breached any representation or warranty of Buyer contained in this Agreement in any material respect, or if Buyer shall fail to perform or comply in all material respects with all covenants and obligations of Buyer under this Agreement to be performed or complied with by it on or prior to the Closing Date; *provided, that* Sellers are not then in material breach of their representations, warranties, covenants or obligations under this Agreement;

(c) by the Sellers, if any condition to the obligations of Sellers set forth in Section 6.01 (c) or (d) shall have become incapable of fulfillment; *provided, that* Sellers are not then in material breach of their representations, warranties, covenants or obligations under this Agreement;

(d) by the Buyer, if any condition to the obligation of Buyer set forth in Section 6.02 shall have become incapable of fulfillment; *provided, that* Buyer is not then in material breach of its representations, warranties, covenants or obligations under this Agreement;

(e) by either the Sellers or Buyer, if the Closing shall not have been consummated on or before the date that is two (2) Business Days after the entry of the Approval Order by the Bankruptcy Court, unless the party seeking termination is in material breach of its representations, warranties, covenants or obligations under this Agreement.

The party desiring to terminate this Agreement pursuant to this Section 9.01 (other than pursuant to Section 9.01(a)) shall give notice of such termination to the other party in accordance with Section 10.01.

SECTION 9.02 *Effect of Termination.* If this Agreement is terminated as permitted by Section 9.01, such termination shall be without liability of any party (or any stockholder, director, officer, employee, agent, consultant or representative of such party) to the other parties to this Agreement except as provided in Sections 2.06 and 10.06, the provisions of which shall represent the sole and exclusive rights of the parties upon a termination of this Agreement under Section 9.01; *provided that* if such termination shall result from the (i) failure of Buyer to perform a covenant or obligation of this Agreement, or (ii) breach of any representation or warranty by Buyer, Buyer shall be fully liable for any and all damages, costs and expenses incurred or suffered by the Sellers as a result of such failure or breach. The provisions of Sections 2.06, 5.01, 10.04, 10.05 and 10.06 shall survive any termination pursuant to Section 9.01.

SECTION 9.03 *Exclusive Remedies.* Effective as of Closing, Buyer waives any rights and claims Buyer may have against the Sellers, whether in law or in equity, relating to (i) any breach of representation, warranty, covenant or obligation contained herein occurring on or prior to the Closing or (ii) the Purchased Assets or Assumed Liabilities.

MISCELLANEOUS

SECTION 10.01 *Notices.* All notices, requests and other communications to any party hereunder shall be in writing (including facsimile or email transmission with delivery confirmation) and shall be given,

if to Buyer:

Car Charging Group, Inc.  
Attn: Amy K. Maliza, Esq.  
Office of the General Counsel  
1691 Michigan Ave., Ste 601  
Miami Beach, Florida 33139  
Fax: (305) 521-0201  
Email: amaliza@CarCharging.com

with a copy to:

Schafer and Weiner, PLLC  
40950 Woodward Avenue, Suite 100  
Bloomfield Hills, MI 48304  
Attention: Michael E. Baum  
Fax: (248) 282-2100  
Email: mbaum@schaferandweiner.com

if to the Sellers, to:

ECotality, Inc.  
430 South 2nd Avenue  
Phoenix, AZ 85003  
Attention: H. Ravi Brar  
Email: ravi.brar@ecotality.com

with a copy to:

Akin Gump Strauss Hauer & Feld LLP  
2029 Century Park East, Suite 2400  
Los Angeles, CA 90067  
Attention: David P. Simonds  
Fax: (310) 229-1000  
Email: dsimonds@akingump.com

All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day at the place of receipt.



SECTION 10.02 *Amendments and Waivers.*

(a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 10.03 *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; *provided that* no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the written consent of each other party hereto; provided, further, however that the Sellers may, without the consent of Buyer, assign this Agreement and their rights and obligations hereunder to a Chapter 7 trustee or other representative of the Sellers' estates, or any liquidating trust or other successor to the Sellers under any plan of reorganization.

SECTION 10.04 *Governing Law.* This Agreement shall be governed by and construed in accordance with the law of the State of Arizona, without regard to the conflicts of law rules of such state.

SECTION 10.05 *Jurisdiction.* The parties hereto agree that, during the period from the date hereof until the date on which Sellers' Chapter 11 Case (or any successor case) is closed or dismissed (the "**Bankruptcy Period**"), any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought exclusively in the Bankruptcy Court. The parties further agree that, following the Bankruptcy Period, any suit, action or proceeding with respect to this Agreement or the transactions contemplated hereby shall be brought against any of the parties exclusively in either the United States District Court for the District of Arizona or any state court of the State of Arizona located in such district, and each of the parties hereby irrevocably consents to the jurisdiction of such court and the Bankruptcy Court (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in the such courts or that any such suit, action or proceeding which is brought in such courts has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of the Bankruptcy Court, the United States District Court for the District of Arizona or any state court of the State of Arizona.

SECTION 10.06 *WAIVER OF JURY TRIAL.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

SECTION 10.07 *Counterparts; Third Party Beneficiaries.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. No provision of this Agreement is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

SECTION 10.08 *Specific Performance.* It is understood and agreed by Buyer that money damages would be an insufficient remedy for any breach of this Agreement by Buyer and as a consequence thereof, after the Bankruptcy Court's entry of the Approval Order, Sellers shall be entitled to specific performance and injunctive or other equitable relief as a remedy for such breach, including, without limitation, an order of the Bankruptcy Court or other court of competent jurisdiction requiring Buyer to comply promptly with any of its obligations hereunder. Sellers shall be entitled to an injunction to enforce specifically the consummation of the transactions contemplated herein in a proceeding instituted in any court in the State of Arizona having jurisdiction over the parties and the matter.

SECTION 10.09 *Entire Agreement.* This Agreement and the Confidentiality Agreement constitute the entire agreement between the parties with respect to the subject matter of this Agreement and supersede all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of this Agreement.

SECTION 10.10 *Bulk Sales Laws.* Buyer hereby waives compliance by the Sellers and the Sellers hereby waive compliance by Buyer with the provisions of the "bulk sales", "bulk transfer" or similar laws of any jurisdiction other than any laws which would exempt any of the transactions contemplated by this Agreement from any Tax liability which would be imposed but for such compliance.

SECTION 10.11 *No Strict Construction.* Buyer, on the one hand, and Sellers, on the other hand, participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by Buyer, on the one hand, and Sellers, on the other hand, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsman shall be applied against any Person with respect to this Agreement.

SECTION 10.12 *Non-Recourse*. No past, present or future director, manager, officer, employee, incorporator, member, unitholder, partner or equityholder of any party hereto shall have any liability for any obligations or liabilities of the parties under this Agreement or any other document related to the transactions contemplated hereby, for any claim based on, in respect of, or by reason of the transactions contemplated hereby and thereby, and each party hereby covenants not to sue any past, present or future director, manager, officer, employee, incorporator, member, unitholder, partner or equityholder of any other party for any such claim.

SECTION 10.13 *Severability*. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

**ECOTALITY, INC.**

By: /s/ H. RAVI BRAR

Name: H. RAVI BRAR

Title: CEO

**ELECTRONIC TRANSPORTATION ENGINEERING CORPORATION**

By: /s/ H. RAVI BRAR

Name: H. RAVI BRAR

Title: CEO

**ECOTALITY STORES, INC.**

By: /s/ H. RAVI BRAR

Name: H. RAVI BRAR

Title: CEO

**ETEC NORTH, LLC**

By: /s/ H. RAVI BRAR

Name: H. RAVI BRAR

Title: CEO

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**THE CLARITY GROUP, INC.**

By: /s/ H. RAVI BRAR

Name: H. RAVI BRAR

Title: CEO

**G.H.V. REFRIGERATION, INC.**

By: /s/ H. RAVI BRAR

Name: H. RAVI BRAR

Title: CEO

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**BLINK ACQUISITION LLC**

By: /s/ Michael D. Farkas

Name: Michael D. Farkas

Title: Authorized Manager

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**SCHEDULE 1.01(b)**  
**PERMITTED LIENS**

1. Any Liens of the US Government in connection with the US Agreements, as set forth in Section 5.07 of the Agreement.
  2. Any Liens related to the Assumed Liabilities.
  3. Buyer acknowledges and agrees that the name Ecotality (together with any and all derivatives thereof, websites, domain name, email addresses social media accounts, tradenames, logos and other intellectual property related thereto, the “**Ecotality Name**”) shall remain the property of Sellers until the end of the Bankruptcy Period at which time the transfer of the Ecotality Name to Buyer hereunder shall become effective. Until such time as the transfer of the Ecotality Name becomes effective, Sellers shall permit Buyer and the purchasers of the Minit-Charger and eTec Labs businesses to use, without charge, the Ecotality domain name by permitting such parties to place links to their respective businesses acquired from Sellers on the Ecotality website. Upon the effectiveness of the transfer of the Ecotality Name at the end of the Bankruptcy Period to Buyer, Buyer shall be obligated to allow the purchasers of the eTec Labs and Minit-Chargers businesses to continue to use the Ecotality domain name and website and continue to allow such parties to place links to their respective businesses acquired from Sellers on the Ecotality website under terms and conditions that are reasonably satisfactory to all of such parties.
  4. Buyer acknowledges and agrees that the Sellers’ Contract with respect to the software known as Sale Logix is also related to and used by the Minit-Charger business and that such Contract is either an Undesignated Contract or a Purchased Asset hereunder. If such Contract is an Undesignated Contract, then prior to rejecting such Contract, Buyer shall consult with the purchaser of the Minit-Charger business to determine whether to accept or reject such Contract and, if the parties so determine, Buyer shall designate such Contract as an Assumed Contract. If such Contract is a Purchased Asset or is an Assumed Contract, Buyer shall permit the purchaser of the Minit-Charger business to use the software that is the subject of such Contract on terms and conditions that the parties may otherwise agree.
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**SCHEDULE 2.01(a)**  
**PURCHASED ASSETS**

1. Each Contract primarily related to the Blink Business and listed on Attachment 2.01(a)(I) to this Schedule 2.01(a) (including any such Contract that is added by Buyer (through written notice to Sellers) to such Attachment prior to the Closing Date).
  2. All items of personal property primarily related to the Blink Business and set forth on Attachment 2.01(a) (II) to this Schedule 2.01(a).
  3. Each commercial and residential EVSE primarily related to the Blink Business.
  4. All of Sellers' right, title and interest in and to the following, but solely to the extent primarily related to the Blink Business: (i) all of Sellers' websites and domain names, including but not limited to the following domain name [www.blinknetwork.com](http://www.blinknetwork.com), (ii) all intellectual property rights in and to Sellers' social media accounts, including but not limited to: Twitter, Facebook, LinkedIn, YouTube, Flickr, and BlinkShare; (iii) all of Sellers' trade secrets, trademarks and/or copyrights, and (iv) all of Sellers' email accounts.
  5. Buyer acknowledges and agrees that the Ecotality Name shall remain the property of Sellers until the end of the Bankruptcy Period at which time the transfer of all of Sellers' right, title and interest in and to the Ecotality Name to Buyer hereunder shall become effective. Until such time as the transfer of the Ecotality Name becomes effective, Sellers shall permit Buyer and the purchasers of the Minit-Charger and eTec Labs businesses to use, without charge, the Ecotality domain name by permitting such parties to place links to their respective businesses acquired from Sellers on the Ecotality website. Upon the effectiveness of the transfer of the Ecotality Name at the end of the Bankruptcy Period to Buyer, Buyer shall be obligated to allow the purchasers of the eTec Labs and Minit-Chargers businesses to continue to use the Ecotality domain name and website and continue to allow such parties to place links to their respective businesses acquired from Sellers on the Ecotality website under terms and conditions that are reasonably satisfactory to all of such parties.
  6. All of Sellers' Claims or Causes of Action, including but not limited to all warranties express or implied, tort recoveries, actions for indemnity or contribution, and other rights or choses in action for damages, against any Person, whether known or unknown, relating to that certain phenomenon occurring in some of the Sellers' approximately 12,000 previously installed EVSEs which causes overheating, and in some cases melting of the connector plug that connects the EVSE to the electric vehicle when charging, including any and all Claims or Causes of Action against any automotive OEMs and equipment suppliers involved in the manufacturing of the relevant components in the EVSEs (collectively, the "**Possible Defect Claims**").
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**ATTACHMENT 2.01(a)(I) to SCHEDULE 2.01(a)**  
**(Assumed Contracts)**

1. Each US Agreement.
  2. Each executory Contract and unexpired lease of any Seller with any host or like party that is, in each case, primarily related to the Blink Business.
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**SCHEDULE 2.01(b)**  
**EXCLUDED ASSETS**

1. Any and all actions, claims, rights, defenses, third-party claims, damages, executions, demands cross-claims, counterclaims, suits, choses in action, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment and claims whatsoever, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured, and whether asserted or assertable directly, indirectly or derivatively, at law, in equity or otherwise, held by (or on behalf of), owned by or accruing to the Sellers (including but not limited to and all of the foregoing which a trustee, debtor in possession, the estates of the Sellers or other appropriate party in interest may asset under sections 502, 510, 541–545, 547-549, 550, 551 and/or 553 of the Bankruptcy Code (other than those which are released or dismissed as part of and pursuant to the Chapter 11 Cases) or under other similar or related state or federal statutes or common law, including fraudulent conveyance laws) (collectively, the “**Causes of Action**”); provided, that the Possible Defect Claims shall not be Excluded Assets and instead shall be Purchased Assets.
  2. Those certain low carbon fuel credits owned by the Sellers as of the Closing Date.
  3. All cash of the Sellers.
  4. All Contracts other than the Assumed Contracts, including the Contracts listed on Attachment 2.01(b) to this Schedule 2.01(b).
  5. The Purchase Price and all rights of Sellers under the Agreement.
  6. All stock and other equity interests in the Sellers.
  7. All corporate minute books, stock transfer books, the corporate seals and of the Sellers, all other corporate books and records relating to Sellers’ organization and existence, all taxpayer and other identification numbers of Sellers, all permits and governmental licenses of Sellers.
  8. All of the Benefit Plans and any assets associated therewith.
  9. All insurance policies of the Sellers, including D&O insurance, and all claims thereunder.
  10. All assets related to the fuel cell business of the Sellers.
  11. All assets of the Sellers primarily related to the eTec Labs business operated by the Sellers.
  12. All assets of the Sellers primarily related to the Minit-Charger business operated by the Sellers.
  13. Buyer acknowledges and agrees that the Ecotality Name shall remain the property of Sellers until the end of the Bankruptcy Period at which time the transfer of all of Sellers’ right, title and interest in and to the Ecotality Name to Buyer hereunder shall become effective. Until such time as the transfer of the Ecotality Name becomes effective, Sellers shall permit Buyer and the purchasers of the Minit-Charger and eTec Labs businesses to use, without charge, the Ecotality domain name by permitting such parties to place links to their respective businesses acquired from Sellers on the Ecotality website.
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**ATTACHMENT 2.01(b) to SCHEDULE 2.01(b)**

**(Contracts that are Excluded Assets)**

1. Each executory Contract and unexpired lease with any party other than a host or similar party (such as vendors or suppliers to any Seller for goods or services related to the Blink Business), unless such executory Contract or unexpired lease is primarily related to the Blink Business and otherwise specifically identified in writing as an Assumed Contract by Buyer to Sellers prior to the Assumed Contract Deadline.

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**SCHEDULE 2.02**  
**ASSUMED LIABILITIES**

1. All liabilities in respect of the US Agreements, which liabilities are described in Section 5.07 of the Agreement.
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**SCHEDULE 2.03**  
**EXCLUDED LIABILITIES**

1. All liabilities to the extent they relate to any Excluded Assets, including those Contracts referenced on Attachment 2.01(b) to Schedule 2.01(b).
2. All liabilities to the extent they arise out of the Benefit Plans.
3. Transfer Taxes in connection with the transactions contemplated hereby.



EXECUTION COPY

EXHIBIT C

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

## COMMON STOCK PURCHASE WARRANT

## CAR CHARGING GROUP, INC.

Warrant Shares: 7,142,857

Initial Exercise Date: October 11, 2013

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, EVENTIDE GILEAD FUND or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to the close of business on the five year anniversary of the Initial Exercise Date (the "Termination Date") but not thereafter, to subscribe for and purchase from Car Charging Group, Inc., a Nevada corporation (the "Company"), up to 7,142,857 shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated October 11, 2013, among the Company and the purchasers signatory thereto.

Section 2. Exercise.

(a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed facsimile copy of the Notice of Exercise form annexed hereto and within three (3) Trading Days of the date said Notice of Exercise is delivered to the Company, the Company shall have received payment of the aggregate Exercise Price of the shares thereby purchased by wire transfer or cashier's check drawn on a United States bank or, if available, pursuant to the cashless exercise procedure specified in Section 2(c) below. No ink-original Notice of Exercise shall be required, nor shall any medallion

guarantee (or other type of guarantee or notarization) of any Notice of Exercise form be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one (1) Business Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

(b) Exercise Price. The exercise price per share of the Common Stock under this Warrant shall be \$1.00, subject to adjustment hereunder (the "Exercise Price").

(c) Cashless Exercise. If at any time after the Initial Exercise Date there is no effective Registration Statement registering, or no current prospectus available for, the resale of the Warrant Shares by the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

- (A) = the VWAP on the Trading Day immediately preceding the date on which Holder elects to exercise this Warrant by means of a "cashless exercise," as set forth in the applicable Notice of Exercise;
- (B) = the Exercise Price of this Warrant, as adjusted hereunder; and
- (X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

Notwithstanding anything herein to the contrary, on the Termination Date, this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 2(c).

(d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. Warrant Shares purchased hereunder shall be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) the shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is



three (3) Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise and (B) surrender of this Warrant (if required) (such date, the “Warrant Share Delivery Date”). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by cashless exercise, if permitted) and all taxes required to be paid by the Holder, if any, pursuant to Section 2(d)(vi) prior to the issuance of such shares, having been paid. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder’s brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a “Buy-In”), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder’s total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder’s right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company’s failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

Section 3. Certain Adjustments.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(b) Subsequent Equity Sales. If the Company or any Subsidiary thereof, as applicable, at any time while this Warrant is outstanding, shall sell or grant any option to purchase, or sell or grant any right to reprice, or otherwise dispose of or issue (or announce any offer, sale, grant or any option to purchase or other disposition) any Common Stock or Common Stock Equivalents, at an effective price per share less than the Exercise Price then in effect (such lower price, the “Base Share Price” and such issuances collectively, a “Dilutive Issuance”) (it being understood and agreed that if the holder of the Common Stock or Common Stock Equivalents so issued shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is less than the Exercise Price, such issuance shall be deemed to have occurred for less than the Exercise Price on such date of the Dilutive Issuance at such effective price), then simultaneously with the consummation of each Dilutive Issuance the Exercise Price shall be reduced and only reduced to equal the Base Share Price and the number of Warrant Shares issuable hereunder shall be increased such that the aggregate Exercise Price payable hereunder, after taking into account the decrease in the Exercise Price, shall be equal to the aggregate Exercise Price prior to such adjustment; *provided however*, that if such Dilutive Issuance occurs within 45 days of the Initial Exercise Date, then only the Exercise Price shall be effected by the Dilutive Issuance and the number of Warrant Shares issuable hereunder will remain the same, except that, following this 45 day period, if there is a subsequent Dilutive Issuance, the Exercise Price shall be reduced to the new Base Share Price and the number of Warrant Shares issuable hereunder shall be increased such that the aggregate Exercise Price payable hereunder, after taking into account the decrease in the Exercise Price, shall be equal to the aggregate Exercise Price of this Warrant prior to the 45 day period adjustment. Such adjustment shall be made whenever such Common Stock or Common Stock Equivalents are issued. Notwithstanding the foregoing, no adjustments shall be made, paid or issued under this Section 3(b) in respect of an Exempt Issuance. The Company shall notify the Holder, in writing, no later than the Trading Day following the issuance or deemed issuance of any Common Stock or Common Stock Equivalents subject to this Section 3(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the “Dilutive Issuance Notice”). For purposes of clarification, whether or not the Company provides a Dilutive Issuance Notice pursuant to this Section 3(b), upon the occurrence of any Dilutive Issuance, the Holder is entitled to receive a number of Warrant Shares based upon the Base Share Price regardless of whether the Holder accurately refers to the Base Share Price in the Notice of Exercise. If the Company enters into a Variable Rate Transaction, despite the prohibition thereon in the Purchase Agreement, the Company shall be deemed to have issued Common Stock or Common Stock Equivalents at the lowest possible conversion or exercise price at which such securities may be converted or exercised

(c) Subsequent Rights Offerings. If the Company, at any time while the Warrant is outstanding, shall issue rights, options or warrants to all holders of Common Stock (and not to the Holder) entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the VWAP on the record date mentioned below, then the Exercise Price shall be multiplied by a fraction, of which the denominator shall be the number of shares of the Common Stock outstanding on the date of issuance of such rights, options or warrants plus the number of additional shares of Common Stock offered for subscription or purchase, and of which the numerator shall be the number of shares of the Common Stock outstanding on the date of issuance of such rights, options or warrants plus the number of shares which the aggregate offering price of the total number of shares so offered (assuming receipt by the Company in full of all consideration payable upon exercise of such rights, options or warrants) would purchase at such VWAP. Such adjustment shall be made whenever such rights, options or warrants are issued, and shall become effective immediately after the record date for the determination of stockholders entitled to receive such rights, options or warrants. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

(d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of

one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction, purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg, L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date. The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

(e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

(f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly mail to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment..

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be mailed to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

(a) Transferability. Subject to compliance with any applicable securities laws and the conditions set forth in Section 4(d) hereof and to the provisions of Section 4.1 of the Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date the Holder delivers an assignment form to the Company assigning this Warrant full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

(b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the Initial Exercise Date and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

(c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

(d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, comply with the provisions of Section 5.7 of the Purchase Agreement.

(e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act.

Section 5. Miscellaneous.

(a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3.



(b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

(c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then, such action may be taken or such right may be exercised on the next succeeding Business Day.

(d) Authorized Shares.

i. The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

ii. Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

iii. Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

(e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

(f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

(g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies, notwithstanding the fact that all rights hereunder terminate on the Termination Date. If the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

(h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

(i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

(j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

(k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

(l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

(m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

(n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

*(Signature Page Follows)*

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

**CAR CHARGING GROUP, INC.**

By: /s/ Michael D. Farkas

Name: Michael D. Farkas

Title: CEO

**NOTICE OF EXERCISE**

TO: CAR CHARGING GROUP, INC.

(1) The undersigned hereby elects to purchase \_\_\_\_\_ Warrant Shares of the Company pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

in lawful money of the United States; or

if permitted, the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

\_\_\_\_\_

The Warrant Shares shall be delivered to the following DWAC Account Number:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(4) Accredited Investor. The undersigned is an “accredited investor” as defined in Regulation D promulgated under the Securities Act of 1933, as amended.

[SIGNATURE OF HOLDER]

Name of Investing Entity: \_\_\_\_\_

*Signature of Authorized Signatory of Investing Entity:* \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

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

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**ASSIGNMENT FORM**

*(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)*

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: \_\_\_\_\_  
(Please Print)

Address: \_\_\_\_\_  
(Please Print)

Dated: \_\_\_\_\_, \_\_\_\_\_

Holder's Signature: \_\_\_\_\_

Holder's Address: \_\_\_\_\_



## EXECUTION COPY

## SECURITIES PURCHASE AGREEMENT

This **SECURITIES PURCHASE AGREEMENT** (this "Agreement") is dated as of October 11, 2013, between Car Charging Group, Inc. a Nevada corporation (the "Company"), and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a "Purchaser" and collectively, the "Purchasers").

**WHEREAS**, subject to the terms and conditions set forth in this Agreement and pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"), and Rule 506(b) promulgated thereunder (meaning, an offering of securities not involving a General Solicitation (as defined herein)), the Company desires to issue and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Company and each Purchaser agree as follows:

**ARTICLE I.  
DEFINITIONS**

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Board of Directors" means the board of directors of the Company.

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"Closing" means the closing of the purchase and sale of the Securities pursuant to Section 2.1.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchasers' obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities, in each case, have been satisfied or waived.

"Closing Statement" means the Closing Statement in the form on Annex A attached hereto.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the common stock of the Company, par value \$0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.



“Common Stock Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Company Counsel” means Szaferman Lakind Blumstein & Blader, PC, with offices located at 101 Grovers Mill Road, Second Floor, Lawrenceville, NJ 08648.

“EGS” means Ellenoff Grossman & Schole LLP, with offices located at 150 East 42nd Street, New York, New York 10017.

“Effective Date” means the earliest of the date that (a) the initial Registration Statement has been declared effective by the Commission, (b) all of the Registrable Securities have been sold pursuant to Rule 144 or may be sold pursuant to Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 and without volume or manner-of-sale restrictions or (c) following the one year anniversary of the Closing Date, provided that a holder of Registrable Securities is not an Affiliate of the Company, all of the Registrable Securities may be sold pursuant to an exemption from registration under Section 4(1) of the Securities Act without volume or manner-of-sale restrictions and Company counsel has delivered to such holders a standing written unqualified opinion that resales may then be made by such holders of the Registrable Securities pursuant to such exemption which opinion shall be in form and substance reasonably acceptable to such holders.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Exempt Issuance” means the issuance of (a) shares of Common Stock or options to employees, officers or directors of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose, (b) securities upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities, (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities and (d) shares of Common Stock upon the exchange of bona fide indebtedness of the Company of up to \$3,000,000 at a price per share that is above \$0.70 per share pursuant to Section 3(a)(10) of the Securities Act, provided however that such issuance shall occur no later than 90 days from the Closing Date.

“FCPA” means the Foreign Corrupt Practices Act of 1977, as amended.

“Liens” means a lien, charge pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

“Per Share Purchase Price” equals \$0.70 per share, subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Placement Agent” means HFP Capital Markets, LLC, the Company’s placement agent in connection with the transactions contemplated hereby.

“Proceeding” means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

“Registration Rights Agreement” means the Registration Rights Agreement, dated the date hereof, among the Company and the Purchasers, in the form of Exhibit A attached hereto.

“Registration Statement” means a registration statement meeting the requirements set forth in the Registration Rights Agreement and covering the resale by the Purchasers of the Shares and the Warrant Shares.

“Rule 144” means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Rule 424” means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Securities” means the Shares, the Warrants and the Warrant Shares.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Shares” means the shares of Common Stock issued or issuable to each Purchaser pursuant to this Agreement.

“Short Sales” means all “short sales” as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

“Subscription Amount” means, as to each Purchaser, the aggregate amount to be paid for Shares and Warrants purchased hereunder as specified below such Purchaser’s name on the signature page of this Agreement and next to the heading “Subscription Amount,” in United States dollars and in immediately available funds.

“Subsidiary” means any subsidiary of the Company as set forth on Schedule 3.1(a) and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the principal Trading Market is open for trading.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE MKT, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or the OTC Bulletin Board and/or OTCQB Market (or any successors to any of the foregoing).

“Transaction Documents” means this Agreement, the Warrants, the Registration Rights Agreement, and all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

“Transfer Agent” means Worldwide Stock Transfer, LLC, the current transfer agent of the Company, with a mailing address of 1 University Plaza, Suite 505, Hackensack, NJ, 07601 and a facsimile number of (201) 820-2010, and any successor transfer agent of the Company.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the OTC Bulletin Board and/or OTCQB Market is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the OTC Bulletin Board and/or OTCQB Market, (c) if the Common Stock is not then listed or quoted for trading on the OTC Bulletin Board and/or OTCQB Market and if prices for the Common Stock are then reported in the “Pink Sheets” published by OTC Markets Group, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Shares then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

“Warrants” means, collectively, the Common Stock purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Warrants shall be exercisable immediately and have a term of exercise equal to 5 years, in the form of Exhibit C attached hereto.

“Warrant Shares” means the shares of Common Stock issuable upon exercise of the Warrants.

## **ARTICLE II. PURCHASE AND SALE**

2.1 Closing. On the Closing Date, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and the Purchasers, severally and not jointly, agree to purchase, up to an aggregate of \$5,000,000 of Shares and Warrants. Each Purchaser shall deliver to the Company, via wire transfer, immediately available funds equal to such Purchaser’s Subscription Amount as set forth on the signature page hereto executed by such Purchaser, and the Company shall deliver to each Purchaser its respective Shares and a Warrant, as determined pursuant to Section 2.2(a), and the Company and each Purchaser shall deliver the other items set forth in Section 2.2 deliverable at the Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Closing shall occur at the offices of EGS or such other location as the parties shall mutually agree.

2.2 Deliveries.

- (a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to each Purchaser the following:
- (i) this Agreement duly executed by the Company;
  - (ii) a legal opinion of Company Counsel, substantially in the form of Exhibit B attached hereto (it being agreed that the Placement Agent shall be included as an addressee in such legal opinion);
  - (iii) a copy of the irrevocable instructions to the Transfer Agent instructing the Transfer Agent to deliver, on an expedited basis, a certificate evidencing a number of Shares equal to such Purchaser's Subscription Amount divided by the Per Share Purchase Price, registered in the name of such Purchaser;
  - (iv) a Warrant registered in the name of such Purchaser to purchase up to a number of shares of Common Stock equal to 100% of such Purchaser's Shares, with an exercise price equal to \$1.00, subject to adjustment therein (such Warrant certificate may be delivered within three Trading Days of the Closing Date); and
  - (v) the Registration Rights Agreement duly executed by the Company.
- (b) On or prior to the Closing Date, each Purchaser shall deliver or cause to be delivered to the Company the following:
- (i) this Agreement duly executed by such Purchaser;
  - (ii) to the Company, such Purchaser's Subscription Amount by wire transfer to the account specified in writing by the Company; and
  - (iii) the Registration Rights Agreement duly executed by such Purchaser.

2.3 Closing Conditions.

- (a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:
- (i) the accuracy in all material respects on the Closing Date of the representations and warranties of the Purchasers contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);
  - (ii) all obligations, covenants and agreements of each Purchaser required to be performed at or prior to the Closing Date shall have been performed; and
  - (iii) the delivery by each Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchasers hereunder in connection with the Closing are subject to the following conditions being met:

- (i) the accuracy in all material respects when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein);
- (ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;
- (iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement;
- (iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof; and
- (v) from the date hereof to the Closing Date, trading in the Common Stock shall not have been suspended by the Commission or the Company's principal Trading Market, and, at any time prior to the Closing Date, trading in securities generally as reported by Bloomberg L.P. shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity of such magnitude in its effect on, or any material adverse change in, any financial market which, in each case, in the reasonable judgment of such Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

### ARTICLE III. REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. Except as set forth in the Disclosure Schedules, which Disclosure Schedules shall be deemed a part hereof and shall qualify any representation or otherwise made herein to the extent of the disclosure contained in the corresponding section of the Disclosure Schedules, the Company hereby makes the following representations and warranties to each Purchaser:

(a) Subsidiaries. All of the direct and indirect subsidiaries of the Company are set forth on Schedule 3.1(a). The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. If the Company has no subsidiaries, all other references to the Subsidiaries or any of them in the Transaction Documents shall be disregarded.

(b) Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of each of this Agreement and the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. This Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not: (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.4 of this Agreement, (ii) the filing with the Commission pursuant to the Registration Rights Agreement, (iii) the notice and/or application(s) to each applicable Trading Market for the issuance and sale of the Securities and the listing of the Shares and Warrant Shares for trading thereon in the time and manner required thereby, (iv) the filing of Form D with the Commission and such filings as are required to be made under applicable state securities laws (collectively, the "Required Approvals").

(f) Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. The Warrant Shares, when issued in accordance with the terms of the Transaction Documents, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. The Company has reserved from its duly authorized capital stock the maximum number of shares of Common Stock issuable pursuant to this Agreement and the Warrants.

(g) Capitalization. The capitalization of the Company is as set forth on Schedule 3.1(g), which Schedule 3.1(g) shall also include the number of shares of Common Stock owned beneficially, and of record, by Affiliates of the Company as of the date hereof. Except as set forth on Schedule 3.1(g), the Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock options under the Company's stock option plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire any shares of Common Stock, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents. The issuance and sale of the Securities will not obligate the Company to issue shares of Common Stock or other securities to any Person (other than the Purchasers) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(h) SEC Reports: Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Company has never been an issuer subject to Rule 144(i) under the Securities Act. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest audited financial statements included within the SEC Reports, except as specifically disclosed in a subsequent SEC Report filed, or a Company press release issued, prior to the date hereof and except as set forth on Schedule 3.1(i): (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans. The Company does not have pending before the Commission any request for confidential treatment of information. Except for the issuance of the Securities contemplated by this Agreement or as set forth on Schedule 3.1(i), no event, liability, fact, circumstance, occurrence or development has occurred or exists, or is reasonably expected to occur or exist, with respect to the Company or its Subsidiaries or their respective businesses, properties, operations, assets or financial condition, that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least 1 Trading Day prior to the date that this representation is made.

(j) Litigation. There is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no executive officer of the Company or any Subsidiary is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.



(l) Compliance. Neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree, or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect (“Material Permits”), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(n) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

(o) Intellectual Property. The Company and the Subsidiaries have, or have rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights and similar rights as described in the SEC Reports as necessary or required for use in connection with their respective businesses and which the failure to so have could have a Material Adverse Effect (collectively, the “Intellectual Property Rights”). None of, and neither the Company nor any Subsidiary has received a notice (written or otherwise) that any of, the Intellectual Property Rights has expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement. Neither the Company nor any Subsidiary has received, since the date of the latest audited financial statements included within the SEC Reports, a written notice of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as could not have or reasonably be expected to not have a Material Adverse Effect. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights. The Company and its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all of their intellectual properties, except where failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(p) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage at least equal to the aggregate Subscription Amount. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

(q) Transactions With Affiliates and Employees. Except as set forth in the SEC Reports, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of \$120,000 other than for: (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock option agreements under any stock option plan of the Company.

(r) Sarbanes-Oxley; Internal Accounting Controls. The Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company and the Subsidiaries have established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and the Subsidiaries and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company or its Subsidiaries.

(s) Certain Fees. Other than fees payable to the Placement Agent, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents.

(t) Private Placement. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchasers as contemplated hereby. The issuance and sale of the Securities hereunder does not contravene the rules and regulations of the Trading Market.

(u) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(v) Registration Rights. Other than each of the Purchasers, no Person has any right to cause the Company to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(w) Listing and Maintenance Requirements. The Company is required to file periodic reports pursuant to Section 15(d) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration. The Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements.

(x) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(y) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information. The Company understands and confirms that the Purchasers will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchasers regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. The press releases disseminated by the Company during the twelve months preceding the date of this Agreement taken as a whole do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(z) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of (i) the Securities Act which would require the registration of any such securities under the Securities Act, or (ii) any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(aa) Solvency. Based on the consolidated financial condition of the Company as of the Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder: (i) the fair saleable value of the Company's assets exceeds the amount that will be required to be paid on or in respect of the Company's existing debts and other liabilities (including known contingent liabilities) as they mature, (ii) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (iii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. Schedule 3.1(aa) sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of \$50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of \$50,000 due under leases required to be capitalized in accordance with GAAP. Neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(bb) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company or of any Subsidiary know of no basis for any such claim.

(cc) No General Solicitation; Only Accredited Investors. In connection with the offering of Securities made pursuant to this Agreement, the Company has not published, distributed, issued, posted or otherwise used or employed in any medium, and shall not publish, distribute, issue, post or otherwise use or employ in any medium (i) any form of general solicitation or advertising within the meaning of Rule 502 under the Securities Act (“General Solicitation”), or (ii) any General Solicitation that constitutes a written communication within the meaning of Rule 405 under the Securities Act. The Company has offered the Securities for sale only to the Purchasers and certain other “accredited investors” within the meaning of Rule 501 under the Securities Act.

(dd) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has: (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law or (iv) violated in any material respect any provision of FCPA.

(ee) Accountants. The Company’s accounting firm is set forth on Schedule 3.1(ee) of the Disclosure Schedules. To the knowledge and belief of the Company, such accounting firm: (i) is a registered public accounting firm as required by the Exchange Act and (ii) shall express its opinion with respect to the financial statements to be included in the Company’s Annual Report for the fiscal year ending December 31, 2013.

(ff) No Disagreements with Accountants and Lawyers. There are no disagreements of any kind presently existing, or reasonably anticipated by the Company to arise, between the Company and the accountants and lawyers formerly or presently employed by the Company and the Company is current with respect to any fees owed to its accountants and lawyers which could affect the Company’s ability to perform any of its obligations under any of the Transaction Documents.

(gg) Acknowledgment Regarding Purchasers’ Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm’s length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers’ purchase of the Securities. The Company further represents to each Purchaser that the Company’s decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(hh) Acknowledgment Regarding Purchaser’s Trading Activity. Anything in this Agreement or elsewhere herein to the contrary notwithstanding (except for Sections 3.2(f) and 4.14 hereof), it is understood and acknowledged by the Company that: (i) none of the Purchasers has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or “derivative” securities based on securities issued by the Company or to hold the Securities for any specified term, (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or “derivative” transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company’s publicly-traded securities, (iii) any Purchaser, and counter-parties in “derivative” transactions to which any such Purchaser is a party, directly or indirectly, may presently have a “short” position in the Common Stock and (iv) each Purchaser shall not be deemed to have any affiliation with or control over any arm’s length counter-party in any “derivative” transaction. The Company further understands and acknowledges that (y) one or more Purchasers may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Warrant Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders’ equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(ii) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Company's placement agent in connection with the placement of the Securities.

(jj) Stock Option Plans. Each stock option granted by the Company under the Company's stock option plan was granted (i) in accordance with the terms of the Company's stock option plan and (ii) with an exercise price at least equal to the fair market value of the Common Stock on the date such stock option would be considered granted under GAAP and applicable law. No stock option granted under the Company's stock option plan has been backdated. The Company has not knowingly granted, and there is no and has been no Company policy or practice to knowingly grant, stock options prior to, or otherwise knowingly coordinate the grant of stock options with, the release or other public announcement of material information regarding the Company or its Subsidiaries or their financial results or prospects.

(kk) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(ll) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

(mm) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(nn) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the “Money Laundering Laws”), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

3.2 Representations and Warranties of the Purchasers. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein):

(a) Organization; Authority. Such Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and performance by such Purchaser of the transactions contemplated by the Transaction Documents have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors’ rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Own Account. Such Purchaser understands that the Securities are “restricted securities” and have not been registered under the Securities Act or any applicable state securities law and is acquiring the Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting such Purchaser’s right to sell the Securities pursuant to the Registration Statement or otherwise in compliance with applicable federal and state securities laws). Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business.

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and as of the date hereof it is, and on each date on which it exercises any Warrants, it will be either: (i) an “accredited investor” as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7) or (a)(8) under the Securities Act or (ii) a “qualified institutional buyer” as defined in Rule 144A(a) under the Securities Act.

(d) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(e) General Solicitation. Such Purchaser is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television, radio or the Internet, or presented at any seminar or any other General Solicitation or general advertisement.

(f) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, such Purchaser has not directly or indirectly, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement, such Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in Section 3.2 shall not modify, amend or affect such Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

#### **ARTICLE IV. OTHER AGREEMENTS OF THE PARTIES**

##### **4.1 Transfer Restrictions.**

(a) The Securities may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act. As a condition of transfer, any such transferee shall agree in writing to be bound by the terms of this Agreement and the Registration Rights Agreement and shall have the rights and obligations of a Purchaser under this Agreement and the Registration Rights Agreement.



(b) The Purchasers agree to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Securities in the following form:

THIS SECURITY HAS NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Securities to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and the Registration Rights Agreement and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Securities to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Securities may reasonably request in connection with a pledge or transfer of the Securities, including, if the Securities are subject to registration pursuant to the Registration Rights Agreement, the preparation and filing of any required prospectus supplement under Rule 424(b)(3) under the Securities Act or other applicable provision of the Securities Act to appropriately amend the list of Selling Stockholders (as defined in the Registration Rights Agreement) thereunder.

(c) Certificates evidencing the Shares and Warrant Shares shall not contain any legend (including the legend set forth in Section 4.1(b) hereof), (i) while a registration statement (including the Registration Statement) covering the resale of such security is effective under the Securities Act, (ii) following any sale of such Shares or Warrant Shares pursuant to Rule 144, (iii) if such Shares or Warrant Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and Warrant Shares and without volume or manner-of-sale restrictions, or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission). The Company shall cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder. If all or any portion of a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Warrant Shares, or if such Shares or Warrant Shares may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares or Warrant Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares or Warrant Shares or if such legend is not otherwise required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission) then such Warrant Shares shall be issued free of all legends. The Company agrees that following the Effective Date or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than three Trading Days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing Shares or Warrant Shares, as the case may be, issued with a restrictive legend (such third Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4. Certificates for Securities subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company System as directed by such Purchaser.

(d) In addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for each \$1,000 of Shares or Warrant Shares (based on the VWAP of the Common Stock on the date such Securities are submitted to the Transfer Agent) delivered for removal of the restrictive legend and subject to Section 4.1(c), \$10 per Trading Day (increasing to \$20 per Trading Day five (5) Trading Days after such damages have begun to accrue) for each Trading Day after the Legend Removal Date until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

(e) Each Purchaser, severally and not jointly with the other Purchasers, agrees with the Company that such Purchaser will sell any Securities pursuant to either the registration requirements of the Securities Act, including any applicable prospectus delivery requirements, or an exemption therefrom, and that if Securities are sold pursuant to a Registration Statement, they will be sold in compliance with the plan of distribution set forth therein, and acknowledges that the removal of the restrictive legend from certificates representing Securities as set forth in this Section 4.1 is predicated upon the Company's reliance upon this understanding.

#### 4.2 Furnishing of Information; Public Information.

(a) If the Common Stock is not registered under Section 12(b) or 12(g) of the Exchange Act on the date hereof, the Company agrees to cause the Common Stock to be registered under Section 12(g) of the Exchange Act on or before the 60<sup>th</sup> calendar day following the date hereof. Until the earliest of the time that (i) no Purchaser owns Securities or (ii) the Warrants have expired, the Company covenants to maintain the registration of the Common Stock under Section 12(b) or 12(g) of the Exchange Act and to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six (6) month anniversary of the date hereof and ending at such time that all of the Securities may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company shall fail for any reason to satisfy the current public information requirement under Rule 144(c) (a "Public Information Failure") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Securities, an amount in cash equal to one percent (1.0%) of the aggregate Subscription Amount of such Purchaser's Securities on the day of a Public Information Failure and on every thirtieth (30<sup>th</sup>) day (pro rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Shares and Warrant Shares pursuant to Rule 144. The payments to which a Purchaser shall be entitled pursuant to this Section 4.2(b) are referred to herein as "Public Information Failure Payments." Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the third (3<sup>rd</sup>) Business Day after the event or failure giving rise to the Public Information Failure Payments is cured. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

4.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

4.4 Securities Laws Disclosure; Publicity. The Company shall (a) by 9:30 a.m. (New York City time) on the Trading Day immediately following the date hereof, issue a press release disclosing the material terms of the transactions contemplated hereby, and (b) file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the Commission within the time required by the Exchange Act. From and after the issuance of such press release, the Company represents to the Purchasers that it shall have publicly disclosed all material, non-public information delivered to any of the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by the Transaction Documents. The Company and each Purchaser shall consult with each other in issuing any other press releases with respect to the transactions contemplated hereby, and neither the Company nor any Purchaser shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Purchaser, or without the prior consent of each Purchaser, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except: (a) as required by federal securities law in connection with (i) any registration statement contemplated by the Registration Rights Agreement and (ii) the filing of final Transaction Documents with the Commission and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this clause (b).

4.5 Shareholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchasers.

4.6 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company covenants and agrees that neither it, nor any other Person acting on its behalf, will provide any Purchaser or its agents or counsel with any information that the Company believes constitutes material non-public information, unless prior thereto such Purchaser shall have entered into a written agreement with the Company regarding the confidentiality and use of such information. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

4.7 Use of Proceeds. Except as set forth on Schedule 4.7 attached hereto, the Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes and shall not use such proceeds: (a) for the satisfaction of any portion of the Company's debt (other than payment of trade payables in the ordinary course of the Company's business and prior practices), (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) for the settlement of any outstanding litigation or (d) in violation of FCPA or OFAC regulations.

4.8 Indemnification of Purchasers. Subject to the provisions of this Section 4.8, the Company will indemnify and hold each Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Parties, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Parties may have with any such stockholder or any violations by such Purchaser Parties of state or federal securities laws or any conduct by such Purchaser Parties which constitutes fraud, gross negligence, willful misconduct or malfeasance). If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The indemnification required by this Section 4.8 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.9 Reservation of Common Stock. As of the date hereof, the Company has reserved and the Company shall continue to reserve and keep available at all times, free of preemptive rights, a sufficient number of shares of Common Stock for the purpose of enabling the Company to issue Shares pursuant to this Agreement and Warrant Shares pursuant to any exercise of the Warrants.

4.10 Listing of Common Stock. The Company hereby agrees to use best efforts to maintain the listing or quotation of the Common Stock on the Trading Market on which it is currently listed, and concurrently with the Closing, the Company shall apply to list or quote all of the Shares and Warrant Shares on such Trading Market and promptly secure the listing of all of the Shares and Warrant Shares on such Trading Market. The Company further agrees, if the Company applies to have the Common Stock traded on any other Trading Market, it will then include in such application all of the Shares and Warrant Shares, and will take such other action as is necessary to cause all of the Shares and Warrant Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action reasonably necessary to continue the listing or quotation and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market.

4.11 Participation in Future Financing.

(a) In addition, for a period commencing on the Closing Date and terminating on the second anniversary of the Closing Date, the Company agrees not to participate in any Subsequent Financing without offering to the Purchasers the opportunity to purchase up to a minimum of 35% of the securities offered in such Subsequent Financing (the "Participation Maximum") on the same terms, conditions and price provided for in the Subsequent Financing.

(b) At least five (5) Trading Days prior to the closing of the Subsequent Financing, the Company shall deliver to each Purchaser a written notice of its intention to effect a Subsequent Financing ("Pre-Notice"), which Pre-Notice shall ask such Purchaser if it wants to review the details of such financing (such additional notice, a "Subsequent Financing Notice"). Upon the request of a Purchaser, and only upon a request by such Purchaser, for a Subsequent Financing Notice, the Company shall promptly, but no later than one (1) Trading Day after such request, deliver a Subsequent Financing Notice to such Purchaser. The Subsequent Financing Notice shall describe in reasonable detail the proposed terms of such Subsequent Financing, the amount of proceeds intended to be raised thereunder and the Person or Persons through or with whom such Subsequent Financing is proposed to be effected and shall include a term sheet or similar document relating thereto as an attachment.

(c) Any Purchaser desiring to participate in such Subsequent Financing must provide written notice to the Company by not later than 5:30 p.m. (New York City time) on the fifth (5<sup>th</sup>) Trading Day after all of the Purchasers have received the Pre-Notice that such Purchaser is willing to participate in the Subsequent Financing, the amount of such Purchaser's participation, and representing and warranting that such Purchaser has such funds ready, willing, and available for investment on the terms set forth in the Subsequent Financing Notice. If the Company receives no such notice from a Purchaser as of such fifth (5<sup>th</sup>) Trading Day, such Purchaser shall be deemed to have notified the Company that it does not elect to participate.

(d) If by 5:30 p.m. (New York City time) on the fifth (5<sup>th</sup>) Trading Day after all of the Purchasers have received the Pre-Notice, notifications by the Purchasers of their willingness to participate in the Subsequent Financing (or to cause their designees to participate) is, in the aggregate, less than the total amount of the Subsequent Financing, then the Company may effect the remaining portion of such Subsequent Financing on the terms and with the Persons set forth in the Subsequent Financing Notice.

(e) If by 5:30 p.m. (New York City time) on the fifth (5<sup>th</sup>) Trading Day after all of the Purchasers have received the Pre-Notice, the Company receives responses to a Subsequent Financing Notice from Purchasers seeking to purchase more than the aggregate amount of the Participation Maximum, each such Purchaser shall have the right to purchase its Pro Rata Portion (as defined below) of the Participation Maximum. "Pro Rata Portion" means the ratio of (x) the Subscription Amount of Securities purchased on the Closing Date by a Purchaser participating under this Section 4.11 and (y) the sum of the aggregate Subscription Amounts of Securities purchased on the Closing Date by all Purchasers participating under this Section 4.11 plus the aggregate subscription amounts of investors party to securities purchase agreement(s) contemplated by clause (d) in the definition of Exempt Issuance that are participating in such Subsequent Financing pursuant to participation rights granted to such investors under such agreements that are substantially similar to this Section 4.11.

(f) The Company must provide the Purchasers with a second Subsequent Financing Notice, and the Purchasers will again have the right of participation set forth above in this Section 4.11, if the Subsequent Financing subject to the initial Subsequent Financing Notice is not consummated for any reason on the terms set forth in such Subsequent Financing Notice within thirty (30) Trading Days after the date of the initial Subsequent Financing Notice.

(g) The Company and each Purchaser agree that if any Purchaser elects to participate in the Subsequent Financing, the transaction documents related to the Subsequent Financing shall not include any term or provision whereby such Purchaser shall be required to agree to any restrictions on trading as to any of the Securities purchased hereunder or be required to consent to any amendment to or termination of, or grant any waiver, release or the like under or in connection with, this Agreement, without the prior written consent of such Purchaser.

(h) Notwithstanding anything to the contrary in this Section 4.11 and unless otherwise agreed to by such Purchaser, the Company shall either confirm in writing to such Purchaser that the transaction with respect to the Subsequent Financing has been abandoned or shall publicly disclose its intention to issue the securities in the Subsequent Financing, in either case in such a manner such that such Purchaser will not be in possession of any material, non-public information, by the tenth (10<sup>th</sup>) Business Day following delivery of the Subsequent Financing Notice. If by such tenth (10<sup>th</sup>) Business Day, no public disclosure regarding a transaction with respect to the Subsequent Financing has been made, and no notice regarding the abandonment of such transaction has been received by such Purchaser, such transaction shall be deemed to have been abandoned and such Purchaser shall not be deemed to be in possession of any material, non-public information with respect to the Company or any of its Subsidiaries.

(i) Notwithstanding the foregoing, this Section 4.11 shall not apply in respect of an Exempt Issuance.

#### 4.12 Prohibition on Variable Rate Transactions.

(a) From the date hereof until such time as no Purchaser holds any of the Warrants, the Company shall be prohibited from effecting or entering into an agreement to effect any issuance by the Company or any of its Subsidiaries of Common Stock or Common Stock Equivalents (or a combination of units thereof) involving a Variable Rate Transaction. "Variable Rate Transaction" means a transaction in which the Company (i) issues or sells any debt or equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive, additional shares of Common Stock either (A) at a conversion price, exercise price or exchange rate or other price that is based upon, and/or varies with, the trading prices of or quotations for the shares of Common Stock at any time after the initial issuance of such debt or equity securities or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock or (ii) enters into any agreement, including, but not limited to, an equity line of credit, whereby the Company may issue securities at a future determined price. Any Purchaser shall be entitled to obtain injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages.

(b) Notwithstanding the foregoing, this Section 4.12 shall not apply in respect of an Exempt Issuance, except that no Variable Rate Transaction shall be an Exempt Issuance.

4.13 Equal Treatment of Purchasers. No consideration (including any modification of any Transaction Document) shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration is also offered to all of the parties to this Agreement. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

4.14 Certain Transactions and Confidentiality. Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it, nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales, of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4. Each Purchaser, severally and not jointly with the other Purchasers, covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.4, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Transaction Documents and the Disclosure Schedules. Notwithstanding the foregoing, and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4 and (iii) no Purchaser shall have any duty of confidentiality to the Company or its Subsidiaries after the issuance of the initial press release as described in Section 4.4. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.15 Form D; Blue Sky Filings. The Company agrees to timely file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof, promptly upon request of any Purchaser. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Securities for, sale to the Purchasers at the Closing under applicable securities or "Blue Sky" laws of the states of the United States, and shall provide evidence of such actions promptly upon request of any Purchaser.

4.16 Capital Changes. The Company shall not undertake a reverse or forward stock split or reclassification of the Common Stock without the prior written consent of the Purchasers holding a majority in interest of the Shares.

4.17 Acknowledgment of Dilution. The Company acknowledges that the issuance of the Securities may result in dilution of the outstanding shares of Common Stock, which dilution may be substantial under certain market conditions. The Company further acknowledges that its obligations under the Transaction Documents, including, without limitation, its obligation to issue the Shares and Warrant Shares pursuant to the Transaction Documents, are unconditional and absolute and not subject to any right of set off, counterclaim, delay or reduction, regardless of the effect of any such dilution or any claim the Company may have against any Purchaser and regardless of the dilutive effect that such issuance may have on the ownership of the other stockholders of the Company.

## ARTICLE V. MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the Closing has not been consummated on or before October 11, 2013; provided, however, that such termination will not affect the right of any party to sue for any breach by any other party (or parties).

5.2 Fees and Expenses. Each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchasers.

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2<sup>nd</sup>) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

5.5 Amendments; Waivers. No provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and the Purchasers holding at least 67% in interest of the Shares then outstanding or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right.



5.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchasers."

5.8 Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.8 and this Section 5.8. **NOTWITHSTANDING THE FOREGOING, IT IS SPECIFICALLY ACKNOWLEDGED AND AGREED THAT THE PLACEMENT AGENT IS AND SHALL BE A THIRD PARTY BENEFICIARY OF THE REPRESENTATIONS AND WARRANTIES OF THE COMPANY AND EACH PURCHASER CONTAINED HEREIN.**

5.9 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If either party shall commence an action or proceeding to enforce any provisions of the Transaction Documents, then in addition to the obligations of the Company under Section 4.8, the prevailing party in such action, suit or proceeding shall be reimbursed by the other party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of an exercise of a Warrant, the applicable Purchaser shall be required to return any shares of Common Stock subject to any such rescinded exercise notice concurrently with the return to such Purchaser of the aggregate exercise price paid to the Company for such shares and the restoration of such Purchaser’s right to acquire such shares pursuant to such Purchaser’s Warrant (including, issuance of a replacement warrant certificate evidencing such restored right).

5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction. The applicant for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Securities.

5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereof or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. EGS does not represent any of the Purchasers and only represents the Placement Agent. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers.

5.18 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

5.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

5.21 **WAIVER OF JURY TRIAL.** **IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVES FOREVER TRIAL BY JURY.**

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**CAR CHARGING GROUP, INC.**

Address for Notice:

By: /s/ Michael D. Farkas  
Name: Michael D. Farkas  
Title: CEO

1691 Michigan Ave. Ste 601  
Miami Beach, FL 33139

Fax: (305) 521-0201

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

**PURCHASER SIGNATURE PAGES TO  
CAR CHARGING GROUP, INC. SECURITIES PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: Eventide Gilead Fund  
*Signature of Authorized Signatory of Purchaser: /s/ David Barksdale*  
Name of Authorized Signatory: David Barksdale  
Title of Authorized Signatory: Manager, Eventide Gilead Fund; Managing Partner, Eventide Asset Mgmt. LLC  
Email Address of Authorized Signatory: dbarksdale@eventidefunds.com  
Facsimile Number of Authorized Signatory: 617-845-0471  
Address for Notice to Purchaser: Abass Jalloh  
Institutional Trust Custody, Huntington,  
7 Easton Oval EA4E62  
Columbus, OH 43219

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Abass Jalloh  
Institutional Trust Custody, Huntington,  
7 Easton Oval EA4E62  
Columbus, OH 43219

Subscription Amount: \$ 5,000,000.00  
Shares: 7,142,857  
Warrant Shares: 7,142,857  
EIN Number: 26-2730711



EXECUTION COPY

EXHIBIT A

## REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (this "Agreement") is made and entered into as of October 11, 2013, between Car Charging Group, Inc., a Nevada corporation (the "Company"), and each of the several purchasers signatory hereto (each such purchaser, a "Purchaser" and, collectively, the "Purchasers").

This Agreement is made pursuant to the Securities Purchase Agreement, dated as of the date hereof, between the Company and each Purchaser (the "Purchase Agreement").

The Company and each Purchaser hereby agrees as follows:

1. **Definitions.** Capitalized terms used and not otherwise defined herein that are defined in the Purchase Agreement shall have the meanings given such terms in the Purchase Agreement. In addition to the terms defined elsewhere in this Agreement or the Purchase Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1:

"Advice" shall have the meaning set forth in Section 6(d).

"Effectiveness Date" means, with respect to the Initial Registration Statement required to be filed hereunder, the 60<sup>th</sup> calendar day following the date hereof (or, in the event of a "full review" by the Commission, the 120<sup>th</sup> calendar day following the date hereof) and with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the 120<sup>th</sup> calendar day following the date on which an additional Registration Statement is required to be filed hereunder (or, in the event of a "full review" by the Commission, the 150<sup>th</sup> calendar day following the date such additional Registration Statement is required to be filed hereunder); provided, however, that in the event the Company is notified by the Commission that one or more of the above Registration Statements will not be reviewed or is no longer subject to further review and comments, the Effectiveness Date as to such Registration Statement shall be the fifth Trading Day following the date on which the Company is so notified if such date precedes the dates otherwise required above, provided, further, if such Effectiveness Date falls on a day that is not a Trading Day, then the Effectiveness Date shall be the next succeeding Trading Day.

"Filing Date" means, with respect to the Initial Registration Statement required hereunder, the 30<sup>th</sup> calendar day following the date hereof and, with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the earliest practical date on which the Company is permitted by SEC Guidance to file such additional Registration Statement related to the Registrable Securities.

"Holder" or "Holders" means the holder or holders, as the case may be, from time to time of Registrable Securities.

"Initial Registration Statement" means the initial Registration Statement filed pursuant to this Agreement.

"Prospectus" means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated by the Commission pursuant to the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

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“Registrable Securities” means, as of any date of determination, (a) all Shares of the shares of Common Stock held by each Purchaser, (b) all Warrant Shares then issued and issuable upon exercise of the Warrants (assuming on such date the Warrants are exercised in full without regard to any exercise limitations therein), (c) any additional shares of Common Stock issued and issuable in connection with any anti-dilution provisions in Warrants (without giving effect to any limitations on exercise set forth in the Warrants) and (d) any securities issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing; provided, however, that any such Registrable Securities shall cease to be Registrable Securities (and the Company shall not be required to maintain the effectiveness of any, or file another, Registration Statement hereunder with respect thereto) for so long as (a) a Registration Statement with respect to the sale of such Registrable Securities is declared effective by the Commission under the Securities Act and such Registrable Securities have been disposed of by the Holder in accordance with such effective Registration Statement, (b) such Registrable Securities have been previously sold in accordance with Rule 144, or (c) such securities become eligible for resale pursuant to Rule 144 as set forth in a written opinion letter to such effect, addressed, delivered and acceptable to the Transfer Agent and the affected Holders (assuming that such securities and any securities issuable upon exercise, conversion or exchange of which, or as a dividend upon which, such securities were issued or are issuable, were at no time held by any Affiliate of the Company, and all Warrants are exercised by “cashless exercise” as provided in Section 2(c) of each of the Warrants), as reasonably determined by the Company, upon the advice of counsel to the Company.

“Registration Statement” means any registration statement required to be filed hereunder pursuant to Section 2(a) and any additional registration statements contemplated by Section 2(c) or Section 3(c), including (in each case) the Prospectus, amendments and supplements to any such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in any such registration statement.

“Rule 415” means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Rule 424” means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“SEC Guidance” means (i) any publicly-available written or oral guidance of the Commission staff, or any comments, requirements or requests of the Commission staff and (ii) the Securities Act.

## 2. Registration Statement.

(a) On or prior to each Filing Date, the Company shall prepare and file with the Commission a Registration Statement covering the resale of all of the Registrable Securities that are not then registered on an effective Registration Statement on Form S-1, Form S-3, or other eligible form in accordance herewith, and shall contain (unless otherwise directed by at least 85% in interest of the Holders) substantially the “Plan of Distribution” attached hereto as Annex A. Subject to the terms of this Agreement, the Company shall use its best efforts to cause a Registration Statement filed under this Agreement (including, without limitation, under Section 3(c)) to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event no later than the applicable Effectiveness Date, and shall use its best efforts to keep such Registration Statement continuously effective under the Securities Act until all Registrable Securities covered by such Registration Statement (i) have been sold, thereunder or pursuant to Rule 144, or (ii) may be sold pursuant to Rule 144, as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Transfer Agent and the affected Holders (the “Effectiveness Period”). The Company shall telephonically request effectiveness of a Registration Statement as of 5:00 p.m. Eastern Time on a Trading Day. The Company shall immediately notify the Holders via facsimile or by e-mail of the effectiveness of a Registration Statement on the same Trading Day that the Company telephonically confirms effectiveness with the Commission, which shall be the date requested for effectiveness of such Registration Statement. The Company shall, by 9:30 a.m. Eastern Time on the Trading Day after the effective date of such Registration Statement, file a final Prospectus with the Commission as required by Rule 424. Failure to so notify the Holder within one (1) Trading Day of such notification of effectiveness or failure to file a final Prospectus as foresaid shall be deemed an Event under Section 2(d).



(b) Notwithstanding the registration obligations set forth in Section 2(a), if the Commission informs the Company that all of the Registrable Securities cannot, as a result of the application of Rule 415, be registered for resale as a secondary offering on a single registration statement, the Company agrees to promptly inform each of the Holders thereof and use its commercially reasonable efforts to file amendments to the Initial Registration Statement as required by the Commission, covering the maximum number of Registrable Securities permitted to be registered by the Commission, on Form S-1, Form S-3 or such other form available to register for resale the Registrable Securities as a secondary offering, with respect to filing on Form S-1, Form S-3 or other appropriate form, and subject to the provisions of Section 2(d) with respect to the payment of liquidated damages; provided, however, that prior to filing such amendment, the Company shall be obligated to use diligent efforts to advocate with the Commission for the registration of all of the Registrable Securities in accordance with the SEC Guidance, including without limitation, Compliance and Disclosure Interpretation 612.09.

(c) Notwithstanding any other provision of this Agreement and subject to the payment of liquidated damages pursuant to Section 2(d), if the Commission or any SEC Guidance sets forth a limitation on the number of Registrable Securities permitted to be registered on a particular Registration Statement as a secondary offering (and notwithstanding that the Company used diligent efforts to advocate with the Commission for the registration of all or a greater portion of Registrable Securities), unless otherwise directed in writing by a Holder as to its Registrable Securities, the number of Registrable Securities to be registered on such Registration Statement will be reduced as follows:

- (i) First, the Company shall reduce or eliminate any securities to be included by any Person other than a Holder;
- (ii) Second, the Company shall reduce Registrable Securities represented by Warrant Shares (applied, in the case that some Warrant Shares may be registered, to the Holders on a pro rata basis based on the total number of unregistered Warrant Shares held by such Holders); and
- (iii) Third, the Company shall reduce Registrable Securities represented by any securities issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event (applied, in the case that some securities may be registered, to the Holders on a pro rata basis based on the total number of unregistered securities held by such Holders).

In the event of a cutback hereunder, the Company shall give the Holder at least five (5) Trading Days prior written notice along with the calculations as to such Holder's allotment. In the event the Company amends the Initial Registration Statement in accordance with the foregoing, the Company will use its best efforts to file with the Commission, as promptly as allowed by Commission or SEC Guidance provided to the Company or to registrants of securities in general, one or more registration statements on Form S-1, Form S-3 or such other form available to register for resale those Registrable Securities that were not registered for resale on the Initial Registration Statement, as amended.

(d) If: (i) the Initial Registration Statement is not filed on or prior to its Filing Date (if the Company files the Initial Registration Statement without affording the Holders the opportunity to review and comment on the same as required by Section 3(a) herein, the Company shall be deemed to have not satisfied this clause (i)), or (ii) the Company fails to file with the Commission a request for acceleration of a Registration Statement in accordance with Rule 461 promulgated by the Commission pursuant to the Securities Act, within five Trading Days of the date that the Company is notified (orally or in writing, whichever is earlier) by the Commission that such Registration Statement will not be "reviewed" or will not be subject to further review, or (iii) prior to the effective date of a Registration Statement, the Company fails to file a pre-effective amendment and otherwise respond in writing to comments made by the Commission in respect of such Registration Statement within fifteen (15) calendar days after the receipt of comments by or notice from the Commission that such amendment is required in order for such Registration Statement to be declared effective, or (iv) a Registration Statement registering for resale all of the Registrable Securities is not declared effective by the Commission by the Effectiveness Date of the Initial Registration Statement, or (v) after the effective date of a Registration Statement, such Registration Statement ceases for any reason to remain continuously effective as to all Registrable Securities included in such Registration Statement, or the Holders are otherwise not permitted to utilize the Prospectus therein to resell such Registrable Securities, for more than ten (10) consecutive calendar days or more than an aggregate of fifteen (15) calendar days (which need not be consecutive calendar days) during any 12-month period (any such failure or breach being referred to as an "Event"), and for purposes of clauses (i) and (iv), the date on which such Event occurs, and for purpose of clause (ii) the date on which such five (5) Trading Day period is exceeded, and for purpose of clause (iii) the date which such ten (10) calendar day period is exceeded, and for purpose of clause (v) the date on which such ten (10) or fifteen (15) calendar day period, as applicable, is exceeded being referred to as "Event Date"), then, in addition to any other rights the Holders may have hereunder or under applicable law, on each such Event Date and on each monthly anniversary of each such Event Date (if the applicable Event shall not have been cured by such date) until the applicable Event is cured, the Company shall pay to each Holder an amount in cash, as partial liquidated damages and not as a penalty, equal to 1% of the aggregate Subscription Amount paid by such Holder pursuant to the Purchase Agreement. If the Company fails to pay any partial liquidated damages pursuant to this Section in full within seven days after the date payable, the Company will pay interest thereon at a rate of 18% per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the Holder, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. The partial liquidated damages pursuant to the terms hereof shall apply on a daily pro rata basis for any portion of a month prior to the cure of an Event.

3. Registration Procedures. In connection with the Company's registration obligations hereunder, the Company shall:

(a) Not less than five (5) Trading Days prior to the filing of each Registration Statement and not less than one (1) Trading Day prior to the filing of any related Prospectus or any amendment or supplement thereto (including any document that would be incorporated or deemed to be incorporated therein by reference), the Company shall (i) furnish to each Holder copies of all such documents proposed to be filed, which documents (other than those incorporated or deemed to be incorporated by reference) will be subject to the review of such Holders, and (ii) cause its officers and directors, counsel and independent registered public accountants to respond to such inquiries as shall be necessary, in the reasonable opinion of respective counsel to each Holder, to conduct a reasonable investigation within the meaning of the Securities Act. Notwithstanding the above, the Company shall not be obligated to provide the Holders advance copies of any universal shelf registration statement registering securities in addition to those required hereunder, or any Prospectus prepared thereto. The Company shall not file a Registration Statement or any such Prospectus or any amendments or supplements thereto to which the Holders of a majority of the Registrable Securities shall reasonably object in good faith, provided that, the Company is notified of such objection in writing no later than five (5) Trading Days after the Holders have been so furnished copies of a Registration Statement or one (1) Trading Day after the Holders have been so furnished copies of any related Prospectus or amendments or supplements thereto. Each Holder agrees to furnish to the Company a completed questionnaire in the form attached to this Agreement as Annex B (a "Selling Stockholder Questionnaire") on a date that is not less than two (2) Trading Days prior to the Filing Date or by the end of the fourth (4<sup>th</sup>) Trading Day following the date on which such Holder receives draft materials in accordance with this Section.

(b) (i) Prepare and file with the Commission such amendments, including post-effective amendments, to a Registration Statement and the Prospectus used in connection therewith as may be necessary to keep a Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period and prepare and file with the Commission such additional Registration Statements in order to register for resale under the Securities Act all of the Registrable Securities, (ii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424, (iii) respond as promptly as reasonably possible to any comments received from the Commission with respect to a Registration Statement or any amendment thereto and provide as promptly as reasonably possible to the Holders true and complete copies of all correspondence from and to the Commission relating to a Registration Statement (provided that, the Company shall excise any information contained therein which would constitute material non-public information regarding the Company or any of its Subsidiaries), and (iv) comply in all material respects with the applicable provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by a Registration Statement during the applicable period in accordance (subject to the terms of this Agreement) with the intended methods of disposition by the Holders thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented.

(c) If during the Effectiveness Period, the number of Registrable Securities at any time exceeds 100% of the number of shares of Common Stock then registered in a Registration Statement, then the Company shall file as soon as reasonably practicable, but in any case prior to the applicable Filing Date, an additional Registration Statement covering the resale by the Holders of not less than the number of such Registrable Securities.

(d) Notify the Holders of Registrable Securities to be sold (which notice shall, pursuant to clauses (iii) through (vi) hereof, be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made) as promptly as reasonably possible (and, in the case of (i)(A) below, not less than one (1) Trading Day prior to such filing) and (if requested by any such Person) confirm such notice in writing no later than one (1) Trading Day following the day (i)(A) when a Prospectus or any Prospectus supplement or post-effective amendment to a Registration Statement is proposed to be filed, (B) when the Commission notifies the Company whether there will be a "review" of such Registration Statement and whenever the Commission comments in writing on such Registration Statement, and (C) with respect to a Registration Statement or any post-effective amendment, when the same has become effective, (ii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to a Registration Statement or Prospectus or for additional information, (iii) of the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration Statement covering any or all of the Registrable Securities or the initiation of any Proceedings for that purpose, (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any Proceeding for such purpose, (v) of the occurrence of any event or passage of time that makes the financial statements included in a Registration Statement ineligible for inclusion therein or any statement made in a Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to a Registration Statement, Prospectus or other documents so that, in the case of a Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and (vi) of the occurrence or existence of any pending corporate development with respect to the Company that the Company believes may be material and that, in the determination of the Company, makes it not in the best interest of the Company to allow continued availability of a Registration Statement or Prospectus, provided, however, in no event shall any such notice contain any information which would constitute material, non-public information regarding the Company or any of its Subsidiaries.

(e) Use its best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order stopping or suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, at the earliest practicable moment.

(f) Furnish to each Holder, without charge, at least one conformed copy of each such Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference to the extent requested by such Person, and all exhibits to the extent requested by such Person (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the Commission; provided, that any such item which is available on the EDGAR system (or successor thereto) need not be furnished in physical form.

(g) Subject to the terms of this Agreement, the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto, except after the giving of any notice pursuant to Section 3(d).

(h) The Company shall cooperate with any broker-dealer through which a Holder proposes to resell its Registrable Securities in effecting a filing with the FINRA Corporate Financing Department pursuant to FINRA Rule 5110, as requested by any such Holder, and the Company shall pay the filing fee required by such filing within two (2) Business Days of request therefor.

(i) Prior to any resale of Registrable Securities by a Holder, use its commercially reasonable efforts to register or qualify or cooperate with the selling Holders in connection with the registration or qualification (or exemption from the Registration or qualification) of such Registrable Securities for the resale by the Holder under the securities or Blue Sky laws of such jurisdictions within the United States as any Holder reasonably requests in writing, to keep each registration or qualification (or exemption therefrom) effective during the Effectiveness Period and to do any and all other acts or things reasonably necessary to enable the disposition in such jurisdictions of the Registrable Securities covered by each Registration Statement; provided, that, the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified, subject the Company to any material tax in any such jurisdiction where it is not then so subject or file a general consent to service of process in any such jurisdiction.

(j) If requested by a Holder, cooperate with such Holder to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be delivered to a transferee pursuant to a Registration Statement, which certificates shall be free, to the extent permitted by the Purchase Agreement, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holder may request.

(k) Upon the occurrence of any event contemplated by Section 3(d), as promptly as reasonably possible under the circumstances taking into account the Company's good faith assessment of any adverse consequences to the Company and its stockholders of the premature disclosure of such event, prepare a supplement or amendment, including a post-effective amendment, to a Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither a Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with clauses (iii) through (vi) of Section 3(d) above to suspend the use of any Prospectus until the requisite changes to such Prospectus have been made, then the Holders shall suspend use of such Prospectus. The Company will use its best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company shall be entitled to exercise its right under this Section 3(k) to suspend the availability of a Registration Statement and Prospectus, subject to the payment of partial liquidated damages otherwise required pursuant to Section 2(d), for a period not to exceed 60 calendar days (which need not be consecutive days) in any 12-month period.

(l) Comply with all applicable rules and regulations of the Commission.

(m) The Company shall use its best efforts to maintain eligibility for use of Form S-1, Form S-3 (or any successor form thereto) for the registration of the resale of Registrable Securities.

(n) The Company may require each selling Holder to furnish to the Company a certified statement as to the number of shares of Common Stock beneficially owned by such Holder and, if required by the Commission, the natural persons thereof that have voting and dispositive control over the shares. During any periods that the Company is unable to meet its obligations hereunder with respect to the registration of the Registrable Securities solely because any Holder fails to furnish such information within three Trading Days of the Company's request, any liquidated damages that are accruing at such time as to such Holder only shall be tolled and any Event that may otherwise occur solely because of such delay shall be suspended as to such Holder only, until such information is delivered to the Company.

4. Registration Expenses. All fees and expenses incident to the performance of or compliance with, this Agreement by the Company shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses of the Company's counsel and independent registered public accountants) (A) with respect to filings made with the Commission, (B) with respect to filings required to be made with any Trading Market on which the Common Stock is then listed for trading, (C) in compliance with applicable state securities or Blue Sky laws reasonably agreed to by the Company in writing (including, without limitation, fees and disbursements of counsel for the Company in connection with Blue Sky qualifications or exemptions of the Registrable Securities) and (D) if not previously paid by the Company in connection with an Issuer Filing, with respect to any filing that may be required to be made by any broker through which a Holder intends to make sales of Registrable Securities with FINRA pursuant to FINRA Rule 5110, so long as the broker is receiving no more than a customary brokerage commission in connection with such sale, (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities), (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company, (v) Securities Act liability insurance, if the Company so desires such insurance, and (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. In no event shall the Company be responsible for any broker or similar commissions of any Holder or, except to the extent provided for in the Transaction Documents, any legal fees or other costs of the Holders.

5. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify and hold harmless each Holder, the officers, directors, members, partners, agents, brokers (including brokers who offer and sell Registrable Securities as principal as a result of a pledge or any failure to perform under a margin call of Common Stock), investment advisors and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, members, stockholders, partners, agents and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "Losses"), as incurred, arising out of or relating to (1) any untrue or alleged untrue statement of a material fact contained in a Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading or (2) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement, except to the extent, but only to the extent, that (i) such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder expressly for use therein, or to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder expressly for use in a Registration Statement, such Prospectus or in any amendment or supplement thereto (it being understood that the Holder has approved Annex A hereto for this purpose) or (ii) in the case of an occurrence of an event of the type specified in Section 3(d)(iii)-(vi), the use by such Holder of an outdated, defective or otherwise unavailable Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated, defective or otherwise unavailable for use by such Holder and prior to the receipt by such Holder of the Advice contemplated in Section 6(d), but only if and to the extent that following the receipt of the Advice the misstatement or omission giving rise to such Loss would have been corrected. The Company shall notify the Holders promptly of the institution, threat or assertion of any Proceeding arising from or in connection with the transactions contemplated by this Agreement of which the Company is aware. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such indemnified person and shall survive the transfer of any Registrable Securities by any of the Holders in accordance with Section 6(h).

(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons, to the fullest extent permitted by applicable law, from and against all Losses, as incurred, to the extent arising out of or based solely upon: (x) such Holder's failure to comply with any applicable prospectus delivery requirements of the Securities Act through no fault of the Company or (y) any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading (i) to the extent, but only to the extent, that such untrue statement or omission is contained in any information so furnished in writing by such Holder to the Company expressly for inclusion in such Registration Statement or such Prospectus or (ii) to the extent, but only to the extent, that such information relates to such Holder's proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder expressly for use in a Registration Statement (it being understood that the Holder has approved Annex A hereto for this purpose), such Prospectus or in any amendment or supplement thereto or (iii) in the case of an occurrence of an event of the type specified in Section 3(d)(iii)-(vi), to the extent, but only to the extent, related to the use by such Holder of an outdated, defective or otherwise unavailable Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated, defective or otherwise unavailable for use by such Holder and prior to the receipt by such Holder of the Advice contemplated in Section 6(d), but only if and to the extent that following the receipt of the Advice the misstatement or omission giving rise to such Loss would have been corrected. In no event shall the liability of any selling Holder under this Section 5(b) be greater in amount than the dollar amount of the net proceeds received by such Holder upon the sale of the Registrable Securities giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings.

(i) If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the "Indemnifying Party") in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all fees and expenses incurred in connection with defense thereof; provided, that, the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that it shall be finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) that such failure shall have materially and adversely prejudiced the Indemnifying Party.

(ii) An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses, (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding, or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and counsel to the Indemnified Party shall reasonably believe that a material conflict of interest is likely to exist if the same counsel were to represent such Indemnified Party and the Indemnifying Party (in which case, if such Indemnified Party notifies the Indemnifying Party in writing that it elects to employ separate counsel at the expense of the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense thereof and the reasonable fees and expenses of no more than one separate counsel shall be at the expense of the Indemnifying Party). The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld or delayed. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is a party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding.

(iii) Subject to the terms of this Agreement, all reasonable fees and expenses of the Indemnified Party (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this Section) shall be paid to the Indemnified Party, as incurred, within ten Trading Days of written notice thereof to the Indemnifying Party; provided, that, the Indemnified Party shall promptly reimburse the Indemnifying Party for that portion of such fees and expenses applicable to such actions for which such Indemnified Party is finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) not to be entitled to indemnification hereunder.

(d) Contribution.

(i) If the indemnification under Section 5(a) or 5(b) is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in this Agreement, any reasonable attorneys' or other fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this Section was available to such party in accordance with its terms.



(ii) The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this Section 5(d), no Holder shall be required to contribute pursuant to this Section 5(d), in the aggregate, any amount in excess of the amount by which the net proceeds actually received by such Holder from the sale of the Registrable Securities subject to the Proceeding exceeds the amount of any damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission.

(e) The indemnity and contribution agreements contained in this Section are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

6. Miscellaneous.

(a) Remedies. In the event of a breach by the Company or by a Holder of any of their respective obligations under this Agreement, each Holder or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, shall be entitled to specific performance of its rights under this Agreement. Each of the Company and each Holder agrees that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall not assert or shall waive the defense that a remedy at law would be adequate.

(b) No Piggyback on Registrations; Prohibition on Filing Other Registration Statements. The Company shall not file any other registration statements until all Registrable Securities are registered pursuant to a Registration Statement that is declared effective by the Commission, provided that this Section 6(b) shall not prohibit the Company from filing amendments to registration statements filed prior to the date of this Agreement.

(c) Compliance. Each Holder covenants and agrees that it will comply with the prospectus delivery requirements of the Securities Act as applicable to it (unless an exemption therefrom is available) in connection with sales of Registrable Securities pursuant to a Registration Statement.

(d) Discontinued Disposition. By its acquisition of Registrable Securities, each Holder agrees that, upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3(d)(iii) through (vi), such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company will use its best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company agrees and acknowledges that any periods during which the Holder is required to discontinue the disposition of the Registrable Securities hereunder shall be subject to the provisions of Section 2(d).

(e) Piggy-Back Registrations. If, at any time during the Effectiveness Period, there is not an effective Registration Statement covering all of the Registrable Securities and the Company shall determine to prepare and file with the Commission a registration statement relating to an offering for its own account or the account of others under the Securities Act of any of its equity securities, other than on Form S-4 or Form S-8 (each as promulgated under the Securities Act) or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with the Company's stock option or other employee benefit plans, then the Company shall deliver to each Holder a written notice of such determination and, if within fifteen days after the date of the delivery of such notice, any such Holder shall so request in writing, the Company shall include in such registration statement all or any part of such Registrable Securities such Holder requests to be registered; provided, however, that the Company shall not be required to register any Registrable Securities pursuant to this Section 6(e) that are eligible for resale pursuant to Rule 144 (without volume restrictions or current public information requirements) promulgated by the Commission pursuant to the Securities Act or that are the subject of a then effective Registration Statement.

(f) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the same shall be in writing and signed by the Company and the Holders of 67% or more of the then outstanding Registrable Securities (for purposes of clarification, this includes any Registrable Securities issuable upon exercise or conversion of any Security). If a Registration Statement does not register all of the Registrable Securities pursuant to a waiver or amendment done in compliance with the previous sentence, then the number of Registrable Securities to be registered for each Holder shall be reduced pro rata among all Holders and each Holder shall have the right to designate which of its Registrable Securities shall be omitted from such Registration Statement. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of a Holder or some Holders and that does not directly or indirectly affect the rights of other Holders may be given only by such Holder or Holders of all of the Registrable Securities to which such waiver or consent relates; provided, however, that the provisions of this sentence may not be amended, modified, or supplemented except in accordance with the provisions of the first sentence of this Section 6(f). No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

(g) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be delivered as set forth in the Purchase Agreement.

(h) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and shall inure to the benefit of each Holder. The Company may not assign (except by merger) its rights or obligations hereunder without the prior written consent of all of the Holders of the then outstanding Registrable Securities. Each Holder may assign their respective rights hereunder in the manner and to the Persons as permitted under Section 5.7 of the Purchase Agreement.

(i) No Inconsistent Agreements. Neither the Company nor any of its Subsidiaries has entered, as of the date hereof, nor shall the Company or any of its Subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. Except as set forth on Schedule 6(i), neither the Company nor any of its Subsidiaries has previously entered into any agreement granting any registration rights with respect to any of its securities to any Person that have not been satisfied in full.

(j) Execution and Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

(k) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be determined in accordance with the provisions of the Purchase Agreement.

(l) Cumulative Remedies. The remedies provided herein are cumulative and not exclusive of any other remedies provided by law.

(m) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(n) Headings. The headings in this Agreement are for convenience only, do not constitute a part of the Agreement and shall not be deemed to limit or affect any of the provisions hereof.

(o) Independent Nature of Holders' Obligations and Rights. The obligations of each Holder hereunder are several and not joint with the obligations of any other Holder hereunder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder hereunder. Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters, and the Company acknowledges that the Holders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or transactions. Each Holder shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

**CAR CHARGING GROUP, INC.**

By: /s/ Michael D. Farkas

Name: Michael D. Farkas

Title: CEO

[SIGNATURE PAGE OF HOLDERS FOLLOWS]

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**SIGNATURE PAGE OF HOLDERS TO CAR CHARGING GROUP, INC.  
REGISTRATION RIGHTS AGREEMENT**

Name of Holder: Eventide Gilead Fund

*Signature of Authorized Signatory of Holder:* /s/ David Barksdale

Name of Authorized Signatory: David Barksdale

Title of Authorized Signatory: Manager, Eventide Gilead Fund  
Managing Partner, Eventide Asset Management, LLC

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**PLAN OF DISTRIBUTION**

Each Selling Stockholder (the “Selling Stockholders”) of the securities and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their securities covered hereby on the principal Trading Market or any other stock exchange, market or trading facility on which the securities are traded or in private transactions. These sales may be at fixed or negotiated prices. A Selling Stockholder may use any one or more of the following methods when selling securities:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- settlement of short sales;
- in transactions through broker-dealers that agree with the Selling Stockholders to sell a specified number of such securities at a stipulated price per security;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- a combination of any such methods of sale; or
- any other method permitted pursuant to applicable law.

The Selling Stockholders may also sell securities under Rule 144 under the Securities Act of 1933, as amended (the “Securities Act”), if available, rather than under this prospectus.

Broker-dealers engaged by the Selling Stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Stockholders (or, if any broker-dealer acts as agent for the purchaser of securities, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with FINRA Rule 2440; and in the case of a principal transaction a markup or markdown in compliance with FINRA IM-2440.

In connection with the sale of the securities or interests therein, the Selling Stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the securities in the course of hedging the positions they assume. The Selling Stockholders may also sell securities short and deliver these securities to close out their short positions, or loan or pledge the securities to broker-dealers that in turn may sell these securities. The Selling Stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or create one or more derivative securities which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

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The Selling Stockholders and any broker-dealers or agents that are involved in selling the securities may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the securities purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each Selling Stockholder has informed the Company that it does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the securities.

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the securities. The Company has agreed to indemnify the Selling Stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

Because Selling Stockholders may be deemed to be “underwriters” within the meaning of the Securities Act, they will be subject to the prospectus delivery requirements of the Securities Act including Rule 172 thereunder. In addition, any securities covered by this prospectus which qualify for sale pursuant to Rule 144 under the Securities Act may be sold under Rule 144 rather than under this prospectus. The Selling Stockholders have advised us that there is no underwriter or coordinating broker acting in connection with the proposed sale of the resale securities by the Selling Stockholders.

We agreed to keep this prospectus effective until the earlier of (i) the date on which the securities may be resold by the Selling Stockholders without registration and without regard to any volume or manner-of-sale limitations by reason of Rule 144, without the requirement for the Company to be in compliance with the current public information under Rule 144 under the Securities Act or any other rule of similar effect or (ii) all of the securities have been sold pursuant to this prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale securities will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale securities covered hereby may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale securities may not simultaneously engage in market making activities with respect to the common stock for the applicable restricted period, as defined in Regulation M, prior to the commencement of the distribution. In addition, the Selling Stockholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of securities of the common stock by the Selling Stockholders or any other person. We will make copies of this prospectus available to the Selling Stockholders and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale (including by compliance with Rule 172 under the Securities Act).

**CAR CHARGING GROUP, INC.**

**Selling Stockholder Notice and Questionnaire**

The undersigned beneficial owner of common stock (the "Registrable Securities") of Car Charging Group, Inc., a Nevada corporation (the "Company"), understands that the Company has filed or intends to file with the Securities and Exchange Commission (the "Commission") a registration statement (the "Registration Statement") for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the "Securities Act"), of the Registrable Securities, in accordance with the terms of the Registration Rights Agreement (the "Registration Rights Agreement") to which this document is annexed. A copy of the Registration Rights Agreement is available from the Company upon request at the address set forth below. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Registration Rights Agreement.

Certain legal consequences arise from being named as a selling stockholder in the Registration Statement and the related prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling stockholder in the Registration Statement and the related prospectus.

**NOTICE**

The undersigned beneficial owner (the "Selling Stockholder") of Registrable Securities hereby elects to include the Registrable Securities owned by it in the Registration Statement.

The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate:

**QUESTIONNAIRE**

**1. Name.**

- (a) Full Legal Name of Selling Stockholder

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- (b) Full Legal Name of Registered Holder (if not the same as (a) above) through which Registrable Securities are held:

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- (c) Full Legal Name of Natural Control Person (which means a natural person who directly or indirectly alone or with others has power to vote or dispose of the securities covered by this Questionnaire):

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**2. Address for Notices to Selling Stockholder:**

\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

**3. Broker-Dealer Status:**

(a) Are you a broker-dealer?

Yes  No

(b) If "yes" to Section 3(a), did you receive your Registrable Securities as compensation for investment banking services to the Company?

Yes  No

Note: If "no" to Section 3(b), the Commission's staff has indicated that you should be identified as an underwriter in the Registration Statement.

(c) Are you an affiliate of a broker-dealer?

Yes  No

(d) If you are an affiliate of a broker-dealer, do you certify that you purchased the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes  No

Note: If "no" to Section 3(d), the Commission's staff has indicated that you should be identified as an underwriter in the Registration Statement.

**4. Beneficial Ownership of Securities of the Company Owned by the Selling Stockholder.**

*Except as set forth below in this Item 4, the undersigned is not the beneficial or registered owner of any securities of the Company other than the securities issuable pursuant to the Purchase Agreement.*

(a) Type and Amount of other securities beneficially owned by the Selling Stockholder:

\_\_\_\_\_  
\_\_\_\_\_

**5. Relationships with the Company:**

*Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equity holders (owners of 5% or more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.*

State any exceptions here:

\_\_\_\_\_  
\_\_\_\_\_

The undersigned agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof at any time while the Registration Statement remains effective.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 5 and the inclusion of such information in the Registration Statement and the related prospectus and any amendments or supplements thereto. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and the related prospectus and any amendments or supplements thereto.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

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

Beneficial  
Owner: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

**PLEASE FAX A COPY (OR EMAIL A .PDF COPY) OF THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE, AND RETURN THE ORIGINAL BY OVERNIGHT MAIL, TO:**

**Car Charging, Inc.  
Office of the General Counsel  
1691 Michigan Ave., Ste 601  
Miami Beach, FL 33139  
F: (305) 521-0201  
Email: [kwagenet@carcharging.com](mailto:kwagenet@carcharging.com)**

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Vanessa: Welcome to the car charging investors conference call. My name is Vanessa and I will be your operator for today's call. At this time all participants are in a listen only mode, later we will conduct a question and answer session. Please note that this conference is being recorded. I will now read the company's safe-harbor statement. This call may include forward looking statements as defined within section 27A of the Securities Act of 1933 as amended, and section 21E of the Securities Exchange Act of 1934 as amended. By their nature, forward looking statements and forecasts, involve risks and uncertainties, because they relate to events and depend on circumstances that will occur in the near future. Those statements include statements regarding the intent, belief or current expectations of Car Charging Group Incorporated and members of its management as well as the assumptions on which such statements are based. Prospective investors are cautioned that any such forward looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results may differ materially from those contemplated by such forward looking statements. The company undertakes no obligation to update or revise forward looking statements to reflect change condition. I will now turn the call over to Michael Farkas co-founder and CEO, mister Farkas you may begin.

Michael Farkas: Thank you. Hello everybody. First I'd like to say thank you for joining the call, there's been some interesting developments in our business recently as well as just a fulfillment of our goals since we founded the company. Before the close of the stock market we released a news announcement of our successful bid for ECOtality's charging assets which included the Blink Network, over 12,000 charging stations that are both in the public and in the residential markets as well as forming relationships and so on. And we believe that it fulfills a substantial amount of what we've been trying to accomplish, which is growing organically as well as through acquisitions. We've got an amazing development in regards to additional property owner partners, such as we released [inaudible 00:02:26], as well as others, and we're continuously going out there and building our business and it's two folds.

It's not only going out there and finding great transactions, like ECOtality, we're going out there and developing amazing relationships with different property owners and hardware vendors, against that effect. And we've been very successful in doing so, and I have to, I raise my hat to my team, they've done an amazing job, for a company such as ours and such a small period of time table to grow as fast as we have and they've done an amazing job. I typically, when I speak to investors, I feel Q and A is probably a lot more productive then just going on and talking about the industry. But I wanted to sit and really tell everyone what's going on, with the industry itself, not just what we're doing. Recently BMW came out and said they were going to electrify every single one of their cars.

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Volkswagen and Audi said that beforehand. We have cars that are coming out from Kia, from the low end, as well as we see the amazing developments with Tesla and how many cars they're selling. Bottom line right now, we are an amazing physician to really benefit from all the electrification of the automobile that's going on. We're not only seeing lower end cars with Leafs and the Volts. We're seeing across the board cars are that are going to be for everyone. And it's an amazing thing right now where when you look at all the benefits, of an easy over internal combustion engine car, there's just so many of them. Going from the environment which is a concern for everybody, but also financial. If you look at what it cost you to operate EV versus internal combustion engine, the value proposition is so [unclear 00:04:10] to EV. If you look at safety, the safety of the car, it's just a much safer car because of the way it's designed in physics. And that's what we're seeing. We're seeing the ability of taking a much better product which is an EV versus an internal combustion engine car. It's almost a change from going from a horse and buggy to an automobile. And we're seeing that take place and we're seeing an amazing growth rate is EV's. What I'd like to do now is just take a little bit of a Q and A and open up to some questions that people may have.

Vanessa:

And thank you, if you have a question, please press star then 1 on your touch tone phone, if you're using a speaker phone, you may need to pick up the handset first before pressing the number. Once again, if you have a question please press star then 1 on your touch tone phone. And I see we have our first question from Jason Lowe. Please go ahead.

Jason Lowe:

Hey Michael, I wanted to first of all congratulate you on the acquisition of the Blink Network. I was hoping you might be able to help us understand the Nissan deal that you did a few months ago, do you have plans with other deals like that, going forward, and are you working on anything else of corporate nature without discussing obviously any particulars, things that might lead to increased stable recurring revenue? Thank you.

Michael Farkas:

In regard to our relationship with Nissan it's several fold. Number one, it's given us marketing allowance which has really assisted us in blowing out the EC Fast Chargers. Another good fact of our relationship is when EV started to be sold; the biggest issue, and even until today is range anxiety, is the inability to charge your car once you're out of your home. And an even bigger issue is the fact that if you don't live in an area where you have a single family home or a dedicated parking space, if there's no infrastructure, you can't buy an EV because you can't charge your car.

So, our relationship with Nissan deals with a lot of those issues. When someone walks into a Nissan dealership, to our relationship, Nissan will be offering access to our charging stations. So if you walk into a Nissan dealership and say hey I want to buy an EV, and if they say okay, where are we going to install this charging station, and you tell them I live in an apartment building in Manhattan, or I live in a multi-family property in LA, or San Francisco, they're eager to go ahead and give you a brochure in our 5E car information, on our infrastructure so that they can charge at our location, and if there's nothing in that area, Nissan will then come to us and say, hey we have a demand, do you want to go out there and look at your locations that you have in the area and see if you can install infrastructure for that. So what that does, is it creates an immediate demand for the consumer for us, to use our services. Again, this is something that's not only in discussions with Nissan, we have some other relationships with other manufacturers to be more formalized in the future, but ultimately, every single auto manufacturer has to be able to go ahead and offer charging services or at least open up the eyes of their consumers that there's charging services available in their areas.

It's even a reason why Tesla went ahead and started offering super charging services along highway routes. Because of the understanding that Elon must have that, hey people have an issue with range anxiety. The American people like driving from LA to San Francisco, or from New York to Boston, or from Chicago, where ever it may be, so what they did is they went ahead and they installed infrastructure along highway routes. The good thing for us is it's not compatible with any cars besides Tesla's. And the good thing about our hardware is it's compatible with all cars, and with Tesla's. But Tesla showed that they needed infrastructure in order to sell their cars, and although they're only looking to have a hundred super charging stations throughout the Americas, we know that's not nearly enough in order for them to support the cars that they want to sell. And ultimately when we're able to support their services nationwide, I have a good feeling although I'm not stating any fact that I don't believe Tesla wants to be in the charging station business. I think that they intend more to be in the selling of cars business.

Jason Lowe: Thank you, that took away a lot of questions, what was your market share previous to this acquisition of Blink Network for the 20 biggest cities and obviously I assume that this helps you a little bit and secondly is a bit of a negative question and that is with all of the hybrid cars that are coming out, does that sort of reduce the demand and dampen the enthusiasm for all electric, so people don't really need you?

Michael Farkas: In regards to the percentage of the market that we have, it's pretty substantial. We've acquired 3 companies in the past through our competitors, ECOTality is the fourth, and by far the largest out of them, and they've received almost 200 million dollars in government grants to build their network, to build their network and charging stations. And we were able to get it at a very good price. To pay the certain percentage of the market place right now hopefully we won't have the justice department knocking on our door pretty soon, but we we're pretty substantial in regards to that amount. In certain areas like New York City, the amount of contracts that we have with parking garage companies is substantial; I think it could be in the 70 to 80 percent, maybe even 90 percent penetration rate in New York City, with possible potential locations. And they're other cities we're not in, Chicago, we unfortunately lost the lawsuit although we are going to appeal, and we lost another 150 units. But we have 13, 13 and a half; 14 thousand charging stations on your network, 150 units in Chicago is not really that much and it's inconsequential. And besides the fact we've also got 2800 almost 2900 units in inventory that we purchased that we can launch in other areas, and fill any gaps that they have in our network over the next little while.

Jason Lowe: [unclear 00:10:28 – 00:10: 30] You have the hybrids, I think that people, I think that's a negative, the growth of hybrids, and that people won't be needing your services, if Toyota's pushing the hybrids so much, rather than the all electric, so that'll actually reduce potential demand for your services.

Michael Farkas: That definitely is a valid point. But you have to look at the growth rate and update of the industry. If you look at the first two, three years of hybrid adaption versus EV adaption, EV adaption update is much faster. If you put them on the timeline from the time two cars were available, which were the Honda Insight and the Toyota Prius, similar in EV's, you have the Nissan Leaf and the Chevy Volt. The sales of EV's are out-pacing the sales of hybrids, in their first couple of years. The hybrid's really the stopgap technology, integrating electric with an engine. But Tesla has proven without a question, we don't need that anymore, and as more efficiencies on the marketplace for the [inaudible 00:11:32] and as these ranges extend on these batteries cars travel longer, and the charging times are decreased, I really don't see the need for hybrids.

Obviously, in the electric car market, what I do see for in the market for is what's called Plug-in hybrids, where you have an engine if you need to go certain distances, when you have batteries that gives you enough range that the engine is just there as a generator. That I do believe is a huge market, and we're seeing that cause pretty much every manufacturer is moving towards that direction. And I think when we look down the road in 10 or 15 years from now, what we'll see is still internal combustion engine cars, maybe not to the same degree as we see today, but what you'll see really is fuel electrics, and plug-in hybrids. That'll really be the market. So I don't really necessarily agree, I think Toyota investing in and sticking with the hybrid market, they were one of the inventors of that marketplace and they are definitely the leader. But it looks like the plug-in market is definitely going to overtake the hybrid market in short order.

Jason Lowe: Thank you.

Vanessa: And our next question comes from John Mustrom, please go ahead.

John Mustrom: Yes Mr. Farkas, I was interested in your acquisition of ECOtality's assets are they not in bankruptcy and does that not have to be signed off by the bankruptcy court, and wouldn't the creditors have something to say about it?

Michael Farkas: The Company has gone bankrupt, it went through the bankruptcy court and our transaction was approved by the judge. So we're buying assets that are clear. There are no liabilities against these assets. They went through the bankruptcy process ready.

John Mustrom: Okay, so the judge has signed off on it and you all have the go ahead to acquire these assets for whatever amount you agreed upon, and you don't anticipate any problem from the creditors committee or anything of that nature?

Michael Farkas: No, again, they've gone through the bankruptcy courts and we had specific terms and conditions to acquiring those assets. We were successful in our bid, we have not closed yet, but it was a bid that was accepted by the judge, the pricing was accepted by the judge, and we're going to be closing imminently, hopefully within the next little while, within days not in months or weeks.



John Mustrom: Okay, and secondly, I noticed a significant decrease in your price per share over the last couple of weeks; do you have any particular inkling as to why with all this good news why something like that should be happening?

Michael Farkas: I think 2 factors we need; actually it's probably 3 factors we need to take into consideration. Number 1, right before ECotality came out with their disclosure of all their issues and their imminent bankruptcy, literally, that Friday I think our stock traded, I don't know we were close, but I know we hit about \$2 either that Thursday or Friday. As soon as that happened and ECotality filed their notification of issues with the DOE, issues with hardware, all the disclosure that they filed, it negatively impacted our stock dramatically, and our stock just went down considerably, almost 50 percent in value.

Industries and sectors trade in tandem and that's really what happened here. And additionally once the Tesla fire happened it also affected our stock. Tesla is a much bigger company, people feel, it rebounded pretty much on its own, but we didn't as much. There's been a lot of confusion in our industry. People don't know what's going on. The media hasn't really figured it out. Wall Street hasn't really figured it out yet. They're still trying to figure it out how the model is going to be built, how does it work, is this business going to make money or not make money? The bottom line is, there is a very valid model to make money in this business, if you can; number one, not be stuck in having your entire fate dependent upon government financing, because if that's what you're relying upon, you're walking down a path of destruction. Number two, you can't just have a Field of Dreams model, you got to go out there and put units in the ground and hope to God that someone's going to come and use them one day. We did that a little bit in our beginning, we had a little bit more of a shotgun approach, now you got to mature a little bit and realize that you need to install hardware based upon demand. And even third so, our model is capital intensive for putting units in the ground, but once the units are in the ground, we only share money with our property owner partners if we make money, so if we need to stop growing, we don't fail, we just stop growing, and we wait for the market to pick itself up. So our model is definitely going to be the one that we believe is going to be the dominant market and model in the future and that's why we're still here and ECotality is not buying us, and we're buying them. Ultimately once all the confusion is gone, and people look at the industry and realize, wow these cars are the need to travel, and the only thing that fuels these cars is electricity and someone's going to have to provide that electricity. And wow, there are 47 billion American households that don't have access to a dedicated parking space, and these people are going to want to drive EV's, and once everyone realizes that and understands that, the volatility in the stock will dissipate.

John Mustrom: Okay, I was just curious because at one point you all were at two dollars or something and now you're, today I don't think you closed at 85 or 90 cents or whatever it is, and I understand the volatility. My last question for you sir, is that you touched on the Chicago market, do you have any plans, what are you going to do there, evidently I guess you lost a lawsuit or something of that nature. What are your plans to replace those loss units? As you indicated it was no big deal but Chicago I would think is a big market.

Michael Farka: Yes, Chicago is a big market, we lost 150 charging stations, what it cost us to pay for those charging stations, and put them in the ground is a lot less than the liabilities that Janus had to assume in getting those units.

John Mustrom: Let me ask you; I didn't mean to interrupt you sir, I'm sorry, go ahead.

Michael Farkas: Netting it was an actually positive transaction for us. We won in either direction. If they would have ruled in our favor, and we would have had the units, but we would have had to have maintained those liabilities and all the issues that 350 had with those, with the Chicago grants and all those things, it now belongs to JNS so it also removes a lot of headaches on our part.

John Mustrom: Let me ask you a question then. Being that you're saying, it seems to me that you're happy that you lost. Correct me if I'm wrong.

Michael Farkas: I am very happy.

John Mustrom: And with that being said then why are you appealing? If you're so happy why are you appealing? That's my question.

Michael Farkas: I'll tell you why I'm appealing. Because ultimately I still like to have a dominant position in marketplaces. Anywhere, in all business, they prefer not having competition or less competition out there and more fragmentation, less interoperability of networks. What we're trying to do is provide a service for EV owners, where you can charge where ever you are. By owning that network and owning that infrastructure, we're able to provide a service that we know of, that we can heist the right way for the EV owner, and to provide a full service. Having other networks in the area, sometimes it doesn't allow that to take place, it becomes confusing, because you have to carry to many RFID cards after this.

So to appeal, there are clients of ours that went along with this transaction and those are locations that we pride on being the sole provider to those vendors or those property owner partners. So those 150 locations themselves are not that monumental in the whole of things, 150 units compared to 13 thousand charging stations on a network. It's so inconsequential but now I got to start over. We have very limited exposure in Chicago right now, although now with the ECotality purchase we have a lot more. So either way we won. I don't look at it as a loss, either way I got rid of more liabilities than it would take to replace it, but again, I have a competitor in the city.

John Mustrom: What I understand from my due diligence and I followed both companies. Them and you, I actually own stock in both companies. Theirs and your and I guess looking at their background, their waffle, that's their back yard, so to speak, and they are in the electrical business. Where I look at you guys, you all are more like administrators, builders. I don't think I would see you out there wiring a car charging unit is what I'm trying to say.

Michael Farkas: No, we are not the electrician like JNS is. JNS, they are electricians, that's their business, that's the relationship that 350 had with them that they installed infrastructure. They are not owners and operators of a network of charging stations. They're now getting into it through this. We have developed this business, we've created a business, but on this type of model providing EV charging services, on a pay per use without having cars and batteries and all these other things, we are the inventor of that business model. So we've been here since 2009, JNS is an electrician. We own and operate our charging stations. That's what really differentiates us from pretty much everybody. We own what we operate. We receive a lion's share of the revenue stream derived from those units. That's our business model.

John Mustrom: Well, you pretty much answered all of my questions, and I thank you for your time, and good luck to you.

Michael Farkas: Thank you very much.

Vanessa: And our next question comes from Damon Swenson. Please go ahead.

Damon Swenson: Good afternoon, simple question here, as the demand for the electric charging market increases, from a real estate point of view, when we have units in let's say parking garages, or apartment complexes, will the, let's say the revenue sharing with the real estate owners, how will that impact the net profit margins or the value of the stock in the future? Will it stay proportionate to where it is now, or will more prime real estate demand a higher percentage of the revenue stream?

Michael Farkas: Our contracts are extremely long in term. We typically have 15 year contracts, which consist of five years with a two automatic five years extensions, which is rare, it depends on the geographical area and the legality, if you're allowed to have contracts longer than a certain term, as well as seven years with two automatic seven year extensions. We sign long term contracts so there's not much volatility in the percentage sharing between us and the property owner. So what we do expect is as more cars are sold, we expect the usage, the utilization rate of each and every unit to increase dramatically, and what does that mean? That means that we will recoup more of our money faster than we invested putting this infrastructure in that ground. And the more money we can generate, the more money we can put into the ground, putting in more infrastructure. And that's exactly how we look at this business. And as more cars are sold, it's all about the cars being sold, the good this is, I don't know if most people follow these numbers, they get months of, from the year over period of 600 percent from the prior year period of 300 percent of 500 percent. These are extreme growth rates. Again this is not a consumer product that's \$50 \$100 or an iPhone at \$600. This is one of the most expensive purchases that people make in their lives besides their home, which is their car. It's going to take a little bit longer for uptake than it is for an iPhone or an iPad. But as these cars sell all you really have to do is look at the consumer reports of EV owners.

I was in a room full of guys and one guy drove a Tesla and I asked him are you ever going to buy an internal combustion engine car again? And he says no. And I have to tell you something, ask any EV owner if they'll ever buy an internal combustion engine car again. So the beef of owners is just going to increase as more people buy. They are some of the most satisfied car owners in the history of automobile manufacturing are EVs. This is ground-breaking kind of things that we're talking about here. And as more and more people buy these things, what does it do? They need to fuel, and whether they have a charging station in their home, they drive to a certain areas; they're going to need to use our charging infrastructure.

It's now given that someone who's just going to pull into a spot even though he may be three quarters charged or half charged and he just plugs in his car, because it's sitting there dormant anyway. What we're doing is now providing the service that you don't have to go somewhere specific to go charge your car. You drive to a Walgreens, you plug your car in. You go to a Simon properties, you plug your car in. You go and park at Icon parking or Laz parking or Central parking; you tell the guy "Just plug my car in." That's where we're going. So that everybody's charged all the time. And what we've done is we've created the platform to be the biggest beneficiary of this industry. I'm going to tell you guys about, let's turn the clock back a hundred or so years ago, okay. We'll talk about a guy named Henry Ford; we'll talk about a guy named John D Rockefeller. Henry Ford was selling cars; he needed to fuel these cars. So when he went to go sell cars, he called on his friend John D Rockefeller and he said to John D, "Do me a favor. I'm going to this area; I want to sell these cars. I need you to put a gas station over there." And they built their businesses in tandem with each other. Rockefeller put his gas stations in and Ford sold his cars. And now that their infrastructure was in there, guess what? Chevy was selling their cars and Pontiac was selling their cars, and Buick was selling their cars. And then you had the foreign guys come in. But what happened? Who became the largest fortune built off of this growth? It wasn't the Ford or GM, it was the Rockefeller fortune. It was standard oil. And that's the position we've put ourselves in; is to whoever sells the car, whether it's a Tesla, a Honda, a Kia, a BMW, or a Mercedes, no matter what, all those guys will be able to fill up at our stations, at our charging spots. That's the market that we've developed and we're going to continuously grow organically as well as through acquisitions.

Damon Swenson:

Thanks a lot.

Michael Farkas:

You're welcome.

Vanessa:

And our next question comes from Stan Sitzer. Please go ahead.

Stan Sitzer:

Hello this is Stan Sitzer with Portland General Electric in Portland Oregon. First I want to congratulate you on your acquisition. And I know you've got your hands full over the next few days but we'd like you to come out and visit Oregon as soon as possible and see the robust EV charging infrastructure we built here. It's not only an ecosystem, but it's also a community of key point customers and we think you'd benefit from checking out what we've been doing here. I guess my question is you're talking about 150 chargers in Chicago, 400 blank units up and running in Oregon, my question to you is, what are you going to do to ensure the consistent availability and reliability of those chargers in terms of maintenance and operation?

Michael Farkas:

I appreciate, it was nice meeting you yesterday in the hearing and I have to tell you it is of utmost importance to us to make sure that this network is maintained and working. I am right now, as we speak, in the ECotality's headquarters that they have here in Phoenix. And my main concern is dealing with getting the people happy who work here. Bankruptcy is a very tough situation for people, people don't know if they're going to have jobs or what they're doing. So I'm here right now just solidifying everybody, making sure and calming and comforting everybody and making sure that we're going to have a network and making sure that we have the right people to maintain that network and not only just to maintain it but to change it and to build on it to make it better. There are a lot of things, you know, the last couple of months with this company they were going through some heartache, they knew that there were some issues, they were not in the growth mode but in the defense mode. That's what we're here are going to change. And our main concern, this is our main focus, is making sure that network is preserved, working, and going to be a better network in several months from now when we enhance it.

- Stan Sitzer: I appreciate your response. We see some of these projects where EV charging infrastructure wasn't solved, started out as science experiments but now it has become a critical part of the transportation infrastructure of our state and others. So we appreciate your commitment to continuing with the reliable service in Oregon. Thank you.
- Michael Farkas: Excellent. One other thing that I want to add is, again each of these units they are connected and they are networked and again when a company goes through bankruptcy, there are issues. If any of you guys need a charging station in a certain area or see one that's not working, communication, that's what I believe is the most important thing. Dealing with you guys in Portland, if there are issues and you see them, you let us know about them and we'll fix them. This is not our first rodeo, we've done this before, we've bought three other companies. Our last transaction was quite a doozy and had a lot of units that weren't working, we're working towards getting them maintained, fixed, and operational. So we've got some experience in getting some of the units working when they haven't been. Again the scale is much bigger, there are a lot more here and we're going to use the staff here at ECotality as best as we can to maintain the network and grow the network.
- Stan Sitzer: You know I know you've got well over a hundred contracts with different property owners in Oregon with different equipment quick charging in level two. Are you planning on hanging on to every one of those contracts so that every one of those stations can continue to be operational? That's my last question.
- Michael Farkas: We are not only looking to do that in Oregon, we're looking to do that nationwide. We want to maintain every single one of those agreements; we want to work things out with every one of the property owners. We've got a good experience dealing with property owners just from the car charging side forget about the ECotality side. Again Ecotality has a lot of units in the ground than we do but collective parking spots I would say we have a lot more at that car charging and integrating both of our businesses is going to be amazing because now we have the breadth of the network, thenetwork itself as well as all of our parking spaces. So it's going to be a very interesting thing, but the most important thing for us is to maintain every single one of those units not only the physical unit but with the relationship with the property owners themselves.
- Vanessa: And thank you. Our next question comes from Wrickters, please go ahead. Mr. Durst your line has been opened, if you are muted on your end, could you please unmute.

Mr. Durst: Oh thank you very much. Well again Stan just congratulated you and I'll do the same thing. I just have one question though. Were you going to plan on continuing the EV project with the DOE? We have a number of sites that are partly in construction, some with permits and various stages of agreements with the property owners and I didn't know if you were going to continue that work. I just want to get your comments on that.

Michael Farkas: Yes, it is our intent to continue with all of that work; we do not want to let anything slip away. Everything that ECOtality worked on producing, we want to run with it. Again, if you have any, if you need any assistance, miscommunication, you can send me an email m d f at car charging dot com [inaudible 00:32:06] doing so. It is our intent to run with every single one of the projects, to fulfill the rest of the DOE obligations. Again we have a very substantial inventory of linked units as well as we have some Nissan units that are on the car charging side, we still have some charge point units in inventory and so on. It is our intent to get every single one of those units in the ground.

Mr. Durst: Okay. That answers my question. What email address did you say you want to us send stuff to?

Michael Farkas: If you need, m d f, that's M as in Michael, D as in David, F as in Frank, at carcharging dot com.

Mr. Durst: Okay. Alright, thanks very much.

Michael Farkas: You're welcome.

Vanessa: And our next question comes from Dick Osborne, please go ahead.

Dick Osborne: Hello Michael, we're a green company with an administration in Washington at least gives lip services in our direction and I think I understand that you've done well in soliciting the systems from high level politicians in a previous democratic administration and of course it was a disaster but Solyndra did manage to get a half a billion dollars out of the government. Are we moving in that direction and are these supposedly high-priced guys doing anything for us?

Michael Farkas: We, the chairman of our company is the former Governor of New Mexico and more importantly he was the Secretary of Energy. He is not just a high paid lip service, he is an intricate part of our business, he is our chairman. I don't believe in paying people to do nothing, that's me personally. That's not my ilk. It just doesn't work that way. You know, we are trying to get ourselves and we've always had car charging taking a position of not using government funds. We didn't go after government grants, we believed in some of the tax credit scenarios. And being able to benefit off of that but we weren't big on the government grants and our business model is not predicated on those government grants. To our acquisitions and for some of our own fallings and our own right we went ahead and received grants and we still have several grants available to us but this business will stand on its own feet whether the government is there or is not there and the reason is very simple, go drive an EV.

Go to your Tesla dealership, drive an EV. Go to your Nissan dealership and drive an EV. And when you drive these cars and you spend some time with these cars, the matter if Al Gore himself was our chairman it wouldn't make a difference. The bottom line is not about a green effort, most people don't realize this but this 25 Billion dollar electrification of the automobile program was not created under Obama, it was a George Bush thing. It was started by George Bush, it was enacted by George Bush, and President Obama was just the one who disbursed the funds. Most people don't realize that but the entire program where Fitsthrough got their money and Telsa was after their money and Ford and Nissan got their money to electrify their automobiles, that was a Bush program. Most people don't realize that and they use it for political and say "Hey the Republicans don't like the green cars" and so on, but Colin Powell drives an EV and so does Al Gore. He runs and goes through party lines and I believe in this industry more importantly than Republican or Democrat, we don't need the government to support us to build our business nor to maintain it.

Dick Osborne: Okay. Alright, that's great. Then second question, where are we in getting on one of the major exchanges?

Michael Farkas: That's a great question. We are working diligently to do so. As with every small company, it's their desire to be listed on a national exchange and it's our intent to do so as well.

Dick Osborne: That doesn't answer my question.

Michael Farkas: I don't have a crystal ball. All I can tell you is all of the things that are necessary in order for us to get listed we are working towards, I can't give any timelines; as I mentioned I do not have a crystal ball, but all I can tell you is this transaction positions us much better to do so because of the equities that we've gained through this transaction. In addition, we have some financing that we're doing that will alleviate any concerns that we have for getting listed on any national exchange. So all I can tell you is I can't tell you when, I can't tell you if, all I can tell you is me as the CEO of this company and as a founder, there's nothing more that I want right now than to get listed.

Dick Osborne: Okay. Thank you.

Vanessa: And our next question comes from Matt Duroushe, please go ahead.

Matt Duroushe: Hi, thank you. I have several questions here. I get your business model as an owner, operator of the charging units. Can you tell us who ultimately you're depending on for the manufacturer and the supply chain of how it gets from the manufacturer to your ownership and installed and operational?



- Michael Farkas: Okay, that's a great question. We currently purchase hardware from several different vendors. One of them is Charge Point, one of them is FemaConnect. We now own the Blink Network. We have some, I believe a couple of air environment units in our locations. And we have an amazing working relationship with some other vendors that we're putting hardware in the ground with. We purchased the hardware from those vendors. We then go ahead and subcontract out the installation of the hardware. So we are the owner, we have a title to the charging stations, the car chargers that we put in the ground as of now.
- That's in our model. All the units that we're putting in the ground, from the ECotality purchase, those are ours, clearly ours. There is some question as to ownership of some of the units that are in the ground already but through our network and through our relationships and hopefully cultivating the relationships that we inherited from ECotality, we'll be deriving a decent revenue stream from those units and having the revenue share on them. And that's it, we own the units, that's our model. It's to own the unit or at least have a revenue stream derived from those units. Does that answer your question?
- Matt Doroushe: Part of my question. Let's go to a company for example like GE Manufactures some of these charging units, do you buy from GE? Or is there a middleman between there or is GE now a competitor?
- Michael Farkas: GE is not a competitor. They are a hardware vendor. We are not going to focus on building hardware. We try to be more agnostic as the technology. We have purchased stuff from GE in the past; I don't want to get too involved in that conversation. I can't at this point in time.
- Matt Doroushe: Okay I do respect that. It leads into my next question however though. Where do you see with your company and the obstacles to integrate into the wireless charging system?
- Michael Farkas: That's an amazing question. When I envisioned this business in 2008 2009, I'm a technology junkie and I was very aware of certain wireless charging technologies that were being developed, some in MIT and elsewhere, and I knew that this industry was going to go wireless one day I knew it, it's inevitable.
- Matt Doroushe: I agree with you.
- Michael Farkas: And when we started our business, we went after the municipalities because I knew ultimately it's going to be wireless, it's going to be done in the streets; maybe not today, maybe not tomorrow, maybe not in the five years from now, because the infrastructures costs, but that's where it's going to end up going when our kids and grandchildren are driving cars. I have a 12 year old and a nine year old and an eight. So when my grandchildren are driving their cars, for sure it's going to be wireless charging, there's no question about it. We have patents at car charging, nothing to do with ECotality in regards to that wireless charging, we try to stay agnostic as to the frequencies that they're going to use to move that charging.

The way the patent on the design of a wireless charging bumper that is prevalent in every single parking facility you see all over the world. It looks like the concrete block you rest your front wheels so you don't hit the building in front of you or go over a cliff or something like that. We designed that, we patented that design that you could put in any technology, anything into that bumper and transfer the electricity wirelessly. So we do believe in that marketplace, we have exposure in that marketplace. But remember something, the physical location whether it's on the street and that's why we have a lot of contracts with municipalities, whether it's in a parking bumper, you need a physical location, and that's in our model. It's not going to invest in technology but to invest and get as many locations as possible with a physical place where cars are going to need to charge. So we'll take advantage of the industry whether it's wireless or fixed charging as long as we have the location which has been our focus and that's why we have been able to acquire some of our competitors and them not acquire us.

Matt Duroushe: So wireless or plug in, in your model it doesn't matter. You have [inaudible 00:42:31]

Michael Farkas: In America, they're not going to be pulling up the street quite some time because of the cost. So when wireless charging takes off it's going to be done in the physical location. You're not going to have to plug in your car. You'll pull your car into the spot.

Matt Duroushe: That's true.

Michael Farkas: When we have that spot it doesn't make a difference if it's wire or wireless because that's the spot you need to charge your car on and the technology doesn't make it different because that's the physical location that they need to be in.

Matt Duroushe: Okay. Fairly different direction. Looking at some financial results for the period ending June 30th of 2013 with decreased revenue, decrease in sales, increase in compensation, expenses and interest expenses, could you comment on what that's all about? Is that an ongoing thing? I mean that's something tandem, but actually I saw with ECOtality, that the concern with?

Michael Farkas: I'm sorry; I have a hard time hearing. Can you repeat that question again please?

Matt Duroushe: Look at the results for your second quarter.

Michael Farkas: Okay.

Matt Druoushe: Revenue's decreased by 61 percent, sales decrease by 94 percent that quarter, they had a large compensation increase, and interest expenses increased.

Michael Farkas: Okay, very simply, yes, very simply. We've had periodic hardware sales its not really our model and it sometimes feud with our revenues look like so that is because of the fact that we didn't have certain hardware sales from the prior quarter or the prior year period. Again, that's not our main business hardware sales it does happen that because of our cost in hardware we were able to get discounted hardware then pass it along to other vendors or other users. That's neither here nor there. Obviously we would like to maintain hardware sales but it's not our business, we're a service provider.

Matt Duroushe: So that sale decrease by 94% you're telling me from hardware sales and not sales of the charging service?

Michael Farkas: That is correct. Our charging services that we have on a monthly basis were probably increasing, I don't want to give you specific numbers but let's say nine to ten percent per month, so there's no question about our EV charging services business is increasing monthly. In regards to the compensation for employees, compensation in general, I have to tell you I'm the guilty party, I have a warrant package where certain warrants as mine expired and by my employment contract they were reissued, not lower but at a premium to the marketplace. That was me. Bottom line, it wasn't a net effect of zero because you don't have the tax benefit when the warrants expire, it only shows when they're issued. So a lot of those compensation was to me for options that I would have to expire and put money into the company for them to have a benefit off of so it looks to be a bit excessive but it was just a replacement for the same equal amount of warrants that I had prior to that.

Matt Duroushe: Okay. Well thank you for letting me put you on the spot like that.

Michael Farkas: Not a problem. I'm a CEO and I believe in transparency. I think it's very important no matter what the question is that shareholders have a right to ask.

Male Speaker 1: Ladies and gentlemen, we have time for one more question from the audience please. Our last question, thank you.

Vanessa: And thank you. Our last question comes from Rob Scanal, please go ahead.

Rob Scanal: Hi Michael. Congratulations on the acquisition. Mine's more of a I'll say, macro question for our company. When you had your comment on let's say a longer uptake which I agree wholeheartedly with, so many companies have been in the right space at a wrong time or too early, hence my question, what generally, if you can be specific, is our burn rate and how long should we be confident PCGI has enough money until we really ramp up? And we wouldn't have to, whether be by loan or equity, we wouldn't have to dilute or ask for a loan and it could stand on its own?

Michael Farkas:

Yeah, that's a question I ask myself everyday. And I've analyzed businesses and companies, I'm 42 in February. And I've been working on Wall street since my midteens, 16, 17 years old, I've raised money for a living, that's what I did before I got into this business. I was a stockbroker and I raised capital as an investment banker and I would mainly focus on MNA. But bottom line is, many companies have that issue. 350 Greens had that issue, ECOtality had that issue, Bean charging had that issue, and there are many companies that litter the streets across the board that have those issues. What I've always known is that there's going to be in this industry a lot of people who are going to throw money on the ground they're not going to know what they're doing and their focus is going to be wrong. And we've been able to take advantage of those opportunities. I through my experiences and my relationships, I have access to capital that's what allowed us to buy these guys instead of them buying me.

I am fully committed to this transaction whether it takes a year or two years or five years but ultimately I know these charging stations are going to stand on their own two feet. I see from numbers and I'm not saying that every charging station is like this because I have charging stations that don't get any usage at all but I have charging stations that can pay themselves off and show a very very nice revenue stream. And all its going to take is for more cars to come out there for them to use these charging stations and we're going to go from an environment having to use equity to finance our growth to being able to use debt to finance our growth and not have much dilution. We're just not there yet. I believe that in 2015 were going to have a tipping point. I don't know if it's in the beginning of the year or the mid of the year but I think we're going to see enough cars on the road, Cadillac's, BMW's, Mercedes, Volkswagen's, Kia's, Hyundais, Chevy's, Buicks, that the utilization rates are going to increase dramatically.

We're not that far, we're not there today but were not that far. In certain areas like San Francisco we have major EV presence out there, there are charging stations that are making money and once we have more cars in other areas, and more cars in those areas as well, there's no question about when you look at the model of how much money you can charge for the use of this electricity, there is without a question a business sense and it makes a lot of financial sense. It's just going to take some time, it's not tonight, it's not today, but it'll happen. Guys, one of the things that we all have to look at is, who are our natural customers? Who are our potential customers? And one thing that we can all say without any doubt is if you look at every single stock market or BORSA nationwide, the most valuable companies on those exchanges are oil companies. No matter where you are you may have an Apple once in a while or a company that bucks that trend but across the world the most valuable companies are oil companies. That's what we're replacing. So the potential here is astronomical.

To say that we're going to be the world leader, I can't say that, I don't have a crystal ball as I mentioned earlier, but I know that what we've done by locking down locations for 15, 21 years, by acquiring some of our competitors, we are best position to take advantage of the change over from internal combustion engine cars to electric. And I have seen different studies across the borders from zero uptake to 80 percent closing vehicles in the marketplace within 20 years or so 20, 25 years. We believe there's going to be a huge uptake, we believe that the laws that are on the books and records of states, California passing, New York passing, you need to go ahead and have 20 percent of parking spots that you are now developing have access to electricity and infrastructure available for the electrification of those parking spaces.

You have states like California and many others that are following that are demanding certain things, called compliance cars, where they have to be electric cars being sold. We see in certain states that number's going to be 10 and 15 percent of the fleets. If it's just what the government is mandating, this business is going to be phenomenal. And I believe that once people are pushed to the direction of realizing what EV's are, they're not going to need to be compliance cars by the governments, there's not going need to be rules to make this happen because the market's going to dictate it. And we car charging now with ECOTality is the best position to take advantage of the switch over from internal combustion engine cars to EV's. Everyone, thank you very much. I appreciate you for your time.

Vanessa:

And thank you ladies and gentlemen, this concludes today's conference. Thank you for participating, you may now disconnect.



**For Immediate Release****CarCharging Successfully Wins Bid to Purchase ECOtality's Blink Assets*****Leading Electric Vehicle Charging Service Provider Intends to Purchase Blink's More Than 12,000 EV Charging Stations and Operating System***

**October 10, 2013 - MIAMI BEACH, FL** – Blink Acquisition, a wholly-owned subsidiary of Car Charging Group, Inc. (OTCQB: CCGI) ("CarCharging"), a nationwide provider of convenient electric vehicle (EV) charging services, announced today that it has successfully won the bid to purchase the Blink related assets of ECOtality, a clean electric transportation and storage technology firm.

The assets included in the transaction are all of Blink's inventory, the more than 12,450 installed electric vehicle Level II charging stations, the 110 DC Fast charging stations, and the Blink network, which is the turnkey operating system for EV drivers, commercial businesses, and utilities, that services the Blink stations.

"Since our inception, CarCharging's intent has been to grow our business organically and through acquisitions, and with the purchase of ECOtality's Blink assets, we believe that it will solidify our position as the leader in the electric vehicle charging industry," stated CarCharging's Chief Executive Officer, Michael D. Farkas.

The deal does not include Minit-Charger, which manufactures and distributes fast-charging systems for material handling and airport ground support vehicles; or ETEC LABS, ECOtality's research and testing resource for governments, automotive OEMs and utilities. The transaction is anticipated to close shortly.

**About Car Charging Group, Inc.**

Car Charging Group, Inc. (OTCQB: CCGI) is a pioneer in nationwide public EV charging services, enabling EV drivers to easily recharge at locations throughout the United States. Headquartered in Miami Beach, FL with offices in San Jose, CA; New York, NY; and Barcelona, Spain; CarCharging's business model is designed to accelerate the adoption of public EV charging services.

CarCharging provides a comprehensive turnkey program to commercial and residential property owners for EV charging services. CarCharging owns and operates the EV charging equipment; pays for all installation, maintenance, and related services; and shares the EV charging revenue with the property owner. Thereby, eliminating capital costs for the property owners, and providing a potential additional stream of revenue.

CarCharging has 87 strategic partnerships across multiple business sectors including multi-family residential and commercial properties, parking garages, shopping malls, retail parking, and municipalities. CarCharging's partners include, but are not limited to Walgreens, Simon Property Group, Equity One, Equity Residential, Forest City, Ace Parking, Central/USA Parking, Icon Parking, Rapid Parking, Parking Concepts, CVS, Related Management, Pennsylvania Turnpike Commission, Pennsylvania Department of Environmental Protection, City of Miami Beach (FL), City of Hollywood (FL), and City of Norwalk (CT), that manage or own a total of over 8 million parking spaces.

CarCharging is committed to creating a robust, feature-rich network for EV charging and is technology agnostic. CarCharging's EV charging network includes equipment manufactured by Aerovironment, ChargePoint, Efacec, General Electric, Nissan, and SemaConnect. The Level II charging stations are compatible with EVs sold in the United States including the Tesla Model S, Nissan LEAF, Chevy Volt, Mitsubishi i-Miev, Toyota Prius Plug-In, Honda Fit EV, and Toyota Rav4 EV, as well as many others scheduled for release in the next few years.

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For more information about CarCharging, please visit [www.CarCharging.com](http://www.CarCharging.com).

**Forward-Looking Safe Harbor Statement:**

This press release contains forward-looking statements as defined within Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. By their nature, forward-looking statements and forecasts involve risks and uncertainties because they relate to events and depend on circumstances that will occur in the near future. Those statements include statements regarding the intent, belief or current expectations of Car Charging Group, Inc., and members of its management as well as the assumptions on which such statements are based. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results may differ materially from those contemplated by such forward-looking statements. The Company undertakes no obligation to update or revise forward-looking statements to reflect changed conditions.

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**For Immediate Release**

**CarCharging Completes \$3.335 Million Purchase of ECOTality's Blink Assets and the Blink Network**

*Transaction Establishes CarCharging as the Largest Electric Vehicle Charging Services Company*

**October 17, 2013 - MIAMI BEACH, FL** – Car Charging Group, Inc. (OTCQB: CCGI) (“CarCharging”), a nationwide provider of convenient electric vehicle (EV) charging services, announced today that its wholly-owned subsidiary, Blink Acquisition LLC, has completed its purchase of the Blink Network and all Blink related assets from ECOTality (NASDAQ:ECTYQ), a clean electric transportation and storage technology firm. Through this transaction, CarCharging gained more than 12,450 installed Level II EV charging stations, 110 installed DC Fast charging stations, more than 2,800 stations in inventory, and the Blink Network, which is the turnkey operating system for EV drivers, commercial businesses, and utilities, that services Blink’s EV charging stations. The assets were purchased for \$3.335 million in cash.

As part of the transaction, CarCharging assumes the assets of “The EV Project”, for which ECOTality previously served as the project manager. The project was funded by the DoE through a federal stimulus grant of \$114.8 million, made possible by the American Recovery and Reinvestment Act (ARRA). The grants were matched by private investment, bringing the total value of the project to approximately \$230 million.

By adding these stations and the Blink network to its existing portfolio, CarCharging solidifies its position as the largest EV charging services company as it now owns and operates more than 13,430 charging points in 35 states and three countries, as well as the software that operates, monitors, and tracks the Blink stations and all of its charging data.

“We are delighted to have completed the Blink transaction and to acquire assets that originally cost approximately \$230 million for only \$3.335 million,” stated CarCharging’s Chief Executive Officer, Michael D. Farkas. “CarCharging has always been committed to supporting the electric car industry and by adding Blink and all of its assets to our network of EV charging stations, we can continue our efforts to further accelerate the adoption of EVs nationwide.”

CarCharging’s immediate focus will be to:

- Develop relationships with Blink’s partners and customers.
  - Work with Blink’s residential and commercial EV charging stations to rectify any outstanding maintenance issues. Blink customers should continue to and utilize Blink’s website [blinknetwork.com](http://blinknetwork.com) and mobile application to locate stations and to obtain assistance; however, CarCharging is interested in feedback from customers and requests that comments be directed to [support@blinknetwork.com](mailto:support@blinknetwork.com).
  - Integrate EV charging stations from other EV charging service equipment (EVSE) manufacturers into the Blink network and launch a solution that offers true interoperability of EV charging networks in order to streamline the charging and payment process for EV drivers.
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The Blink stations use sophisticated software to meter power, communicate with power companies, operate efficiently, and save consumers money on each charge. Blink's residential and commercial chargers are linked to the Blink network via the Internet, which provides access to various advanced options, such as scheduling and starting charging sessions remotely via the web, Smartphone, or mobile device. A wealth of information can be accessed via customizable gauges and a dashboard that provides real time information for the Blink charging stations.

This is the fourth acquisition in 2013 for CarCharging. The company acquired 350Green, Beam Charging, and EVPass earlier this year.

Ardour Capital Investments LLC, a leading clean technology investment bank, acted as exclusive advisor to CarCharging regarding the acquisition of Blink's assets.

#### **About Car Charging Group, Inc.**

Car Charging Group, Inc. (OTCQB: CCGI) is a pioneer in nationwide public electric vehicle (EV) charging services, enabling EV drivers to easily recharge at locations throughout the United States. Headquartered in Miami Beach, FL with offices in San Francisco, CA; New York, NY; Phoenix, AZ; and Barcelona, Spain; CarCharging's business model is designed to accelerate the adoption of public EV charging.

CarCharging provides a comprehensive turnkey program to commercial and residential property owners for EV charging services. CarCharging owns and operates the EV charging equipment; manages the installation, maintenance, and related services; and shares the EV charging revenue with the property owner. Thereby, eliminating most capital costs for the property owners, and providing a potential additional revenue stream.

CarCharging has strategic partnerships across multiple business sectors including multi-family residential and commercial properties, parking garages, shopping malls, retail parking, and municipalities. CarCharging's partners include, but are not limited to Walgreens, IKEA, WalMart, Simon Property Group, Equity One, Equity Residential, Forest City, Cinemark USA, Fox Studios, Facebook, PayPal, Kimpton Hotels and Restaurants, Mayo Clinic, San Diego Padres, University of Pennsylvania, Ace Parking, Central/USA Parking, Icon Parking, Rapid Parking, Parking Concepts, CVS, Related Management, Pennsylvania Turnpike Commission, Pennsylvania Department of Environmental Protection, City of Phoenix (AZ), City of Philadelphia (PA), and City of Miami Beach (FL).

CarCharging is committed to creating a robust, feature-rich network for EV charging and is hardware agnostic. CarCharging's owns the Blink network, and owns and operates EV charging equipment manufactured by Blink, Aerovironment, ChargePoint, Efacec, General Electric, Nissan, and SemaConnect. CarCharging's Level II charging stations are compatible with EVs sold in the United States including the Tesla Model S, Nissan LEAF, Chevy Volt, Mitsubishi i-Miev, Toyota Prius Plug-In, Honda Fit EV, and Toyota Rav4 EV, as well as many others scheduled for release over the next few years.

For more information about CarCharging, please visit [www.CarCharging.com](http://www.CarCharging.com).

For more information about the Blink Network or stations, please visit [www.BlinkNetwork.com](http://www.BlinkNetwork.com).



**Forward-Looking Safe Harbor Statement:**

This press release contains forward-looking statements as defined within Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. By their nature, forward-looking statements and forecasts involve risks and uncertainties because they relate to events and depend on circumstances that will occur in the near future. Those statements include statements regarding the intent, belief or current expectations of Car Charging Group, Inc., and members of its management as well as the assumptions on which such statements are based. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results may differ materially from those contemplated by such forward-looking statements. The Company undertakes no obligation to update or revise forward-looking statements to reflect changed conditions.

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