

Agreement for Electromobility Services

Between

- (1) **Plugsurfing GmbH**, a company registered in Germany, having its registered office in Tempelhofer Ufer 17, 10963 Berlin with the Corporate Identity No. HRB 143142 B (the "**EMP**" or a "**Party**"); and
- (2) The business partner who confirms the following agreement by registering onto Plugsurfing (the "**CPO**" or a "**Party**").

The "**EMP**" and the "**CPO**" are hereinafter jointly referred to as "**Parties**".

PREAMBLE

- (A) The EMP is in the business of providing electromobility services.
- (B) The CPO operates charging stations for electric vehicles.
- (C) The EMP has the intention to provide Charging Services (as defined below) to EMP Customers (as defined below), and it is interested in making the Charging Infrastructure and Charging Stations (each as defined below) of the CPO available to the EMP Customers.
- (D) The CPO has the intention to grant the EMP and the EMP Customers access to the Charging Infrastructure and Charging Stations in order for the EMP to provide the Charging Services to the EMP Customers.

Now, therefore, the Parties agree to the following:

§ 1 Definitions

The following definitions apply throughout this Agreement unless the context otherwise requires:

- **"Agreement"** means this Agreement for Electromobility Services, including its Attachments.
- **"Application"** means any application (e.g. mobile or in-car systems) or website that can be used to get remote access to Charging Station or that gives information about location, availability and/or tariffs of the Charging Station.
- **"Billing Data"** has the meaning set forth in § 6 (2).
- **"Charge Detail Record"** or **"CDR"** means a charge detail record, which includes all the charging event-related data for the respective customer ID, as further described in § 5 (2)b.
- **"Charging Infrastructure"** means the network of charging facilities for Electric Vehicles open to the public, including the Charging Stations and other associated hardware, and software (e.g. control software for the Charging Stations), as further described in § 2 (2).
- **"Charging Services"** means the services further described in § 2 (1).
- **"Charging Session"** means a process of 2 minutes or more (or 0.5 kWh or more) during which an EV is charged.
- **"Charging Station"** means a charging facility operated by the CPO and open to the public by means of which Charging Services can be used by EMP Customers. A Charging Station may contain one or more charging points or power supply connections.
- **"Effective Date"** has the meaning set forth in § 7 (1).
- **"Electric Vehicles"** or **"EV"** means 100% electrically operated vehicles and plug-in hybrid vehicles.
- **"EMP Customer"** means the contract party of the EMP to which the EMP offers electromobility services. EMP Customers can be OEM customers (for example electromobility suppliers, manufacturers of Electric Vehicles) or direct end customers (for example users of Electric Vehicles) of the EMP.
- **"Insolvency Proceedings"** means any form of bankruptcy, liquidation, receivership, administration, arrangement or scheme with creditors, moratorium, interim or provisional supervision by the court or court appointee, whether in the jurisdiction of the place of incorporation or in any other jurisdiction, whether in or out of court.
- **"Protocol"** means the Open Charge Point Information interface (OCPI) **OR** the EMP's proprietary interface OIOI **OR** the Open Clearing House Protocol (OCHP), and where the context requires, documentation related thereto.
- **"RFID Token"** means any form of a wireless device used for authentication and/or payment. This can be a card or a key-fob, but also be part of a mobile device equipped with RFID (Near Field Communication) technology.

§ 2 Object of the Agreement and Services of the CPO

(1) The EMP intends to provide EMP Customers with Charging Services, including but not limited to:

- a map of Charging Stations included in the EMP's network, along with detailed location data
- selecting a Charging Station,
- reserving a Charging Station (if possible and allowed),
- visibility of tariff of charging, incl. all cost,
- authentication at the Charging Station,
- starting the charging session,
- charging electricity,
- stopping the charging session,
- visibility of CDR, and
- cashless payment,

all using an Application or RFID Token where applicable.

(2) The CPO shall make its Charging Infrastructure and Charging Stations available to the EMP for use by EMP Customers as follows:

- Geographical scope: worldwide, unless separately agreed differently between the Parties
- New Charging Stations after Effective Date: automatically included within the scope of this Agreement, unless separately agreed differently between the Parties
- Removing Charging Stations after Effective Date: The CPO shall inform the EMP four (4) weeks prior to removing any Charging Station from being available to the EMP for the use of the EMP Customers

(3) The CPO shall ensure that its Charging Infrastructure and Charging Stations that it makes available to the EMP Customers comply with the applicable laws and technological and safety standards; are functional and fit for the purpose of charging Electric Vehicles; and are maintained accordingly.

(4) The CPO shall ensure that the necessary approvals and licenses for the operation of the Charging Infrastructure and Charging Stations have been obtained and shall comply with all regulatory obligations (e.g. formation of a balancing group) as well as mandatory consumer laws that apply in relation to the EMP Customers. It shall use metering equipment that allows the appropriate metering of the amounts of electricity used by EMP Customers according to calibration law (e.g. to process the Renewable Energies Act levy/EEG, electricity tax, and other duties and public obligations based on consumption in kWh). As between the Parties, the EMP is not responsible for the CPO's Charging Infrastructure and Charging Stations in any way.

(5) The CPO shall ensure that its Charging Infrastructure and Charging Stations (i) comply with good industry practice IT security standards and (ii) use good industry practice fraud prevention and control measures. The CPO shall without delay inform the EMP if it suspects fraudulent use of an EMP Customer account or of a Charging Station that it has made available to the EMP Customers. For the avoidance of doubt, this § 2 (5) is without prejudice to the CPO's data protection related obligations.

(6) The CPO acknowledges that the EMP Customers may be consumers and that it shall ensure that any aspects of the Charging Services it is performing comply with mandatory consumer protection laws.

- (7) The CPO shall strive that each Charging Station within the scope of the Agreement is available for use for at least 95% of the time of each calendar month. For the avoidance of doubt, the fact that a Charging Station and/or an individual charging point is occupied does not mean it is unavailable for the purposes of the availability calculation.
- (8) The CPO shall have its own CPO ID issued by the competent authority, such as:
 - a. eViolin (The Netherlands – Association for interoperable charging)
 - b. BDEW (Germany - Association of Energy and Water Industries)
 - c. Austria Mobile Power (Austria – Association for ID issuing)
 - d. AFIREV (France – Association for ID issuing and roaming)
- (9) The EMP will have its own EMP ID for token authentication, issued by the competent authority such as those listed under § 2 (7) above, where so required by applicable law.
- (10) Upon request, the CPO shall immediately provide the EMP all information that the EMP requires to be able to comply with its regulatory obligations.

§ 3 Relationship of the Parties and Interface to the Customers

- (1) This Agreement has been made on non-exclusive basis, and each Party shall be at liberty to enter into agreements with third parties.
- (2) The EMP is the primary point of contact for the service it offers to the EMP Customers. In order to ensure customer satisfaction, the CPO agrees to provide all reasonable assistance to the EMP and the EMP Customers that is required from time to time. This may include e.g. the CPO providing to the EMP certain information in order for the EMP to process a query of an EMP Customer or the CPO directly assisting the EMP Customers and/or other ultimate end users in connection with any practical issues that may exist with a Charging Station and/or a Charging Session. In the event where an EMP Customer makes a complaint in connection with an attempted or completed Charging Session at a Charging Station of the CPO, the EMP and the CPO will cooperate in good faith in order to find a solution for compensating the EMP Customer in the interest of maintaining the EMP Customer relationship.

§ 4 Visibility of the CPO's Charging Stations in the EMP's service

- (1) The EMP shall include the CPO's Charging Stations to its service to the extent covered under § 2 (2) above. In addition to the information received from the CPO, the EMP shall be at liberty to show EMP Customers additional information relating to Charging Stations (e.g. nearby restaurants or points of interest as well as customer feedback and ratings regarding the Charging Stations or the CPO in general).
- (2) The EMP has the right to remove a Charging Station from its service in the interest of maintaining the usability, quality and/or attractiveness of the EMP's service offering. In particular, the EMP may remove any Charging Station for which the data submitted fails to comply with § 5 below.

§ 5 Protocol related co-operation, CDR data and other data

- (1) The Protocol shall be used as communication protocol to facilitate the provision of the Charging Services. The implementation of the Protocol is agreed in further detail in [Attachment 1](#). The CPO agrees to implement new versions of the Protocol and thereto related functionalities upon request of the EMP and to co-operate in good faith with the EMP in this respect.
- (2) The CPO shall send a CDR for each Charging Session using the Protocol in accordance with the following requirements:
 - a. The CDR shall be transmitted in accordance with the intervals agreed in [Attachment 2](#).

- b. The CDR shall contain at least the following attributes: auth ID (Contract ID), start date time and stop date time (time), total time (time), kWh (total_energy), location of a Charging Station, and price of charge.
- c. The CDR data submitted by the CPO to the EMP must be unaltered, complete and correct.

The EMP may, on a case by case basis, agree to process manually submitted CDRs not submitted through the use of the Protocol. In such case, the EMP shall be allowed to charge a handling fee of 0.15 Euros (fifteen cents) per each CDR submitted.

- (3) The CPO shall provide the EMP the static and dynamic data that is required by the EMP to display the Charging Stations on digital front ends (e.g. the Applications). The dynamic data shall show the current availability of the individual Charging Stations. The CPO shall communicate the availability status (dynamic information) to the EMP as soon as a status change occurs, and no later than 10 seconds after the change in status of the Charging Station's availability.
- (4) The CPO is responsible for assuring that the CDRs and any other static or dynamic data are transmitted successfully to the EMP, and shall take appropriate immediate actions should it notice that any submission of data results in an error. In such case the CPO is responsible for resubmitting the CDRs or other data electronically to the EMP, and if not technically possible, to do this manually. In case of a temporary malfunction of the Charging Station or of the CPO's control software, the CPO shall use its best efforts to (a) provide dynamic data which correctly shows the status of the Charging Station; and (b) submit the CDR(s) of that Charging Station to the EMP at the earliest time possible.

§ 6 Fees for Charging and Billing Data

- (1) The prices for Charging Sessions have been agreed in Attachment 2.
- (2) The EMP shall issue a credit note to the CPO on a monthly basis in arrears with a single consolidated credit note for that month. The credit note shall include all CDR data for the calendar month in question (hereinafter referred to as "**Billing Data**").
- (3) The following requirements apply to each consolidated credit note:
 - a. The EMP shall issue each credit note for a calendar month no later than 14 days after the last day of such month.
 - b. Each fee in the credit note shall be calculated in accordance with the Billing Data and prices as agreed in Attachment 2.
- (4) The following requirements apply to any CDR included in the Billing Data:
 - a. The Billing Data shall only contain Charging Sessions in respect of which a CDR has been initially received by the EMP in accordance with § 5 (2).
 - b. Each CDR included in the Billing Data must comply with the following requirements: the Charging Station number (e.g. EVSEID), Charging Station location, start of charging time (DD.MM.YYYY, mm:ss:ss), end of charging time (DD.MM.YYYY, mm:ss:ss), and kWh at the respective Charging Stations shall be included in the CDR contained in Billing Data and shall correspond to those originally submitted under the initial CDR in accordance with § 5 (2). For Charging Sessions where the kWh amount is neither the basis for fees nor recorded by the CPO, no kWh information shall be submitted.
 - c. The Billing Data shall be correct and true, and only include Billing Data from the calendar month in question.

(5) Payments shall be due 14 days after the date of issue of a credit note.

§ 7 Contract Term and Termination

- (1) This Agreement will come into force on the day the CPO registers onto Plugsurfing (the "**Effective Date**") and is initially valid two (2) years from the Effective Date. The term of this Agreement will be automatically extended each year by subsequent periods of one year if it is not terminated in writing by one of the Parties, subject to a notice period of three (3) months and with termination taking effect at the end of each contract year on the anniversary of the Agreement.
- (2) Each Party has the right to terminate this Agreement by written notice to the other Party with immediate effect if:
 - a. the other Party is in material breach of any obligation on its part pursuant to this Agreement or any related document which, if that breach is capable of remedy, is not remedied by the Party that is in breach within twenty (20) business days after the other Party's notification thereof; or
 - b. the other Party is subject to Insolvency Proceedings.
- (3) Termination in accordance with this § 7 shall not affect the liabilities already incurred by the Parties prior to the moment of termination, including EMP's liability for the costs of the Charging Sessions carried out until the date of termination of this Agreement.
- (4) In the event of termination of the Agreement, the Parties shall use reasonable measures to, upon request, return or destroy all items, drawings, objects, equipment, and tools (regardless of whether they have been worked on) that were provided by the other Party and contain confidential information which falls under § 10. The confidentiality provisions hereof shall survive any termination to the extent any materials are not returned or destroyed in accordance with the foregoing.
- (5) The termination notices in this § 7 require written form, PDF format or signed mail (using digital signature).

§ 8 Marketing and Communication and Intellectual Property Rights

- (1) No Party shall make or permit any person connected with it to make any announcement concerning the obligations in this Agreement or any ancillary matter, except with the prior written approval of the other Party. Announcements regarding the cooperation of the Parties shall not require prior written approval if and to the extent such announcements are limited to the subject of this Agreement.
- (2) The EMP and its third party business partners, are allowed to publish the respective location of the Charging Stations and/or the CPO as the operator as part of the display of the Charging Stations in digital front ends (e.g. the Applications) and in other systems that market the EMP's or its third party business partners' services. For the avoidance of doubt, the foregoing shall also apply to any related data provided by the CPO via the Protocol and the data that is the subject of § 5 (3) hereof.
- (3) The CPO hereby authorizes the EMP and its third party business partners to use the CPO's name and logos as well as any intellectual property rights related thereto (including, for the avoidance of doubt, copyrights, designs, trade marks (whether registered or unregistered) and trade names) in communication media, as well as for the purposes described in § 8 (2). If the CPO's name or logos change, the CPO shall notify the EMP of such changes.
- (4) For the avoidance of doubt, no intellectual property rights (including trade secrets) of either Party are transferred to the other Party under this Agreement.

In case the Protocol to be taken into use is OCPI or OCHP, the below clause (5) applies and clause (6) further below is not applicable

When OCPI or OCHP:

- (5) No intellectual property rights (including trade secrets) of the EMP are licensed hereunder. The CPO shall accordingly refrain from reverse engineering the EMP's technology and proprietary processes, as well as attempting to discover or exploit any trade secrets therein.

In case the Protocol to be taken into use is OIOI, the below clause (6) applies and the above clause (5) is not applicable:

When OIOI:

- (6) The EMP hereby grants the CPO a non-exclusive, non-transferable and non-sublicensable right and license to use the Protocol, limited to the term of this Agreement, for the sole purpose of facilitating the provision of the Charging Services to the EMP Customers. Except as expressly set forth in the previous sentence, no intellectual property rights (including trade secrets) of the EMP are licensed hereunder. The CPO shall accordingly refrain from reverse engineering the EMP's technology and proprietary processes, as well as attempting to discover or exploit any trade secrets therein.

The CPO specifically commits to not a) disclose, distribute, sell, license, transfer, lease, or in any other manner provide the Protocol to third parties; (b) decode, decrypt, decompile, reverse engineer, or otherwise attempt to derive the source code of the Protocol, except to the extent allowed by applicable laws; (c) adapt, modify or create any derivative works based on the Protocol.

§ 9 Liability

- (1) A Party shall only be liable for direct and actual damages or losses suffered by the other Party as a result of its breach of this Agreement. The Parties will not be liable for any loss of business, use, profit, anticipated profit, contracts, revenues, goodwill or anticipated savings; loss of data or use of data; or damage to the other Party's reputation or any costs relating thereto.
- (2) If one of the Parties has to compensate for direct damage ensuing from this Agreement, the amount of this compensation will be limited to an amount of EUR 50,000 per event, or the maximum amount paid out for this event by the insurances concluded for that purpose, whereby the highest amount to be paid applies. In the event of multiple events as referred to above in one (1) year, the total maximum compensation obligation of a Party amounts to EUR 500,000 per year. In the case of intent and/or gross negligence on the part of the Party causing the damage, the maximum mentioned amounts do not apply.
- (3) The foregoing limitations shall not apply to in respect of any breaches of the confidentiality provisions.
- (4) Notwithstanding the other terms and conditions of this Agreement, the CPO shall fully indemnify and hold the EMP harmless against any liability suffered by EMP towards the EMP Customers and/or other ultimate end users and/or authorities due to an act or omission of the CPO, including CPO's failure to comply with § 2 (3) - (6). Where such claims are made towards the EMP, the EMP shall be entitled to retain its own counsel and defend itself in the matter, and the CPO shall give all necessary assistance to the EMP in the matter, including all information regarding the facts of the matter, as well as any other information reasonably required by the EMP for effective defense and/or an orderly settlement of the matter.
- (5) The EMP shall have no liability hereunder for the acts or omissions of the EMP Customers.

§ 10 Confidentiality

- (1) The Parties (i) will maintain strictly confidential all information, data, and trade secrets acquired within the framework of the Agreement that are either identified as confidential or that are to be considered confidential based on their nature; (ii) will use this information solely for the execution of this Agree-

ment; and (iii) will pass it on to third parties only when necessary for the execution of this Agreement or for the exercise of rights arising from the same. For the avoidance of doubt, the EMP's technology and proprietary processes are the EMP's trade secrets and constitute confidential information under this Agreement.

- (2) This shall not apply to such information, data, and trade secrets that (i) at the time of their disclosure are already public knowledge or were already known by the other Party, (ii) after their disclosure have become public knowledge through no fault of the other Party, (iii) after their disclosure to the other Party have been disclosed by a third party in a manner that is not illegal and without restriction with respect to confidentiality or exploitation, and/or (iv) have been developed independently without using the trade secrets of the other Party. Furthermore, the obligation shall not apply if the information, data, and trade secrets must be made public by law, and especially due to regulatory order or court ruling; the disclosing Party shall notify the other Party of this immediately within the framework of what is legally permissible.

§ 11 Data Protection

- (1) The Parties will collect, process, and use the personal data transmitted to them according to the then-current legal requirements of data protection and data security. The Parties shall take the appropriate technical and organizational measures to secure the data adequately and in this regard also comply in particular with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). If a Party determines that the data to be processed for the other Party has been disclosed to an unauthorized third party, said Party shall inform the affected Party immediately and report the nature and scope of the unauthorized awareness of the data.
- (2) If required in the event of future changes to the law, the Parties shall agree on supplementary amendments to this Agreement. Neither Party shall in bad faith refuse the corresponding amendments to this Agreement.

§ 12 Audit

The CPO shall maintain an audit trail of all financial and non-financial data relating to this Agreement. From time to time, the EMP and its third party representatives shall have the right to perform audits of the CPO in order to verify the accuracy and correctness of all CDR data, charges, credit notes and invoices relating to this Agreement. If any audit reveals any error or overcharging, the CPO shall promptly give an appropriate correcting credit equivalent to the amount of the error or overcharge plus interest at the rate of 8% p.a. calculated from the date of receipt by the CPO of the overcharged amount until the date of repayment to the EMP. Moreover, the EMP and its third party representatives shall have the right to perform inspections of the CPO in order to verify Supplier's performance in accordance with this Agreement. The CPO shall fully cooperate with the EMP in the context of such an audit and/or inspection and in remediating any non-compliance that may be discovered in the context of such an audit and/or inspection. Each Party shall bear its own costs in connection with an audit and/or inspection.

§ 13 Written Form

Changes to this Agreement require the written form and shall have no effect unless executed by the duly authorized representatives of both Parties. Verbal agreements shall have no legal force.

§ 14 Attachments

The following documents form an integral part of this Agreement:

Attachment 1: Conditions

Attachment 2: Data Processing Agreement

In the event of any discrepancy between the content of the body of this Agreement and any of the Attachments, the content of this Agreement shall prevail. In the event of any discrepancy between any

of the Attachments, the Attachment with the lowest number shall prevail. Notwithstanding the aforesaid, the terms of Attachment 4 (Data Processing Agreement) shall always prevail over any of the other Attachments in case of a discrepancy.

If information in the Attachments is subject to change from time to time, the Parties commit to sign a new Attachment that records such change and to agree on a date from which it is valid.

§ 15 Final Provisions

- (1) Should a provision of the Agreement be or become invalid or unenforceable, the remaining provisions of the Agreement shall remain unaffected thereby. The Parties will cooperate to replace the invalid or unenforceable provision with a valid or enforceable provision that comes as close as possible to the invalid or unenforceable provision in its economic and legal effect.
- (2) No provision or right under this Agreement shall be considered waived without an explicit written statement or agreement to such effect signed by the waiving Party in each specific case separately. A waiver of any right under this Agreement shall not be construed as a waiver of any other right under this Agreement.
- (3) All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The seat of the arbitration shall be in Berlin, Germany, and the language of the arbitration shall be English.
- (4) The Agreement shall be subject solely to the laws of Germany under exclusion of the UN Convention on Contracts for the International Sale of Goods.

Attachment 1: Conditions

1. CDR frequency

CDRs are sent from the CPO to the EMP with the following frequency, unless separately agreed differently between the Parties:

| | |
|--|---|
| <u>Immediately after end of Charging Session</u> | X |
| <u>Once per day</u> | |
| <u>Every 4 weeks</u> | |
| <u>Every month</u> | |
| <u>Every 3 month (quarter)</u> | |
| <u>Other</u> | |

2. Fees payable by the EMP

- The following usage fees shall apply for the use of the Charging Stations. In the case of timed usage fees, the relevant time period may be rounded to whole minutes.

Cost are excl. VAT (if applicable) as it is a business to business transaction.

As agreed separately between the Parties

- For any calculation based on duration of time, the time period to be considered is the period between the “start transaction” and “stop transaction” signals, which are transmitted from the back end system to the Charging Station, regardless of whether electricity is flowing at that time.
- Other than the fees itemized above, there shall not be any other costs or fees charged by the CPO from the EMP. The prices itemized above specifically contain the costs and fees payable for using the Charging Infrastructure, for the electricity extracted by the Electric Vehicles of EMP Customers (electricity supply costs), for the network connection and for the use of the network, as well as the metering costs, billing costs, and all relevant taxes, fees, duties, surcharges, and levies (including electricity taxes and the Renewable Energy Act levy), and any other costs, fees or expenses which may arise. The CPO is obliged to properly calculate and pay all relevant taxes, fees, levies, surcharges, and allocated costs (including electricity taxes and the Renewable Energy Act levy) that may accrue during the Charging Session.
- Should it be determined at any point in time that the EMP is obligated to pay or deduct from the fees payable to the CPO any electricity taxes or any other taxes, fees, duties, surcharges or levies of whatever nature, the prices specified above shall be automatically decreased by a corresponding amount.

3. Fees payable by the EMP Customers

For the avoidance of doubt, the EMP may freely set the prices it charges from the EMP Customers.