

# General Terms and Conditions of Business

for deliveries and services of

## CHARGE-V GmbH

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### § 1 Scope of these General Terms and Conditions and contracting parties

1. These General Terms and Conditions (hereinafter: GTC) apply exclusively to the legal relationship between CHARGE-V GmbH (hereinafter: CHARGE-V) and the purchaser not acting as a consumer (hereinafter: Customer) of deliveries and/or services of CHARGE-V (hereinafter: Deliveries). General Terms and Conditions of the Customer shall only apply if CHARGE-V has expressly agreed to them in text form. § Section 305b of the German Civil Code (BGB) remains unaffected.
2. These GTC shall also apply to contracts concluded in the future within the meaning of clause 1 in the version valid at the time of conclusion of the future contracts, without reference having to be made to the validity of these GTC.

### § 2 Conclusion of contract

1. The offers of CHARGE-V are subject to change without notice and are non-binding. This also applies if catalogues, technical documentation, drawings, plans, calculations, calculations, references to DIN standards or other product descriptions or documents - including in electronic form - are provided to the Customer.
2. The customer's order for the supplies shall be deemed to be a binding offer of contract. Unless expressly stated otherwise in the order, CHARGE-V may accept this contractual offer within three weeks of receipt.

### § 3 Performance Description Charging Columns

1. CHARGE-V shall supply charging columns with the technical specifications agreed in the contract.
2. The charging columns require a mobile radio connection for the full functionality of the billing and system software. This requires that the charging pole is equipped with a SIM card and is set up at a location with mobile phone reception from the network operator that issued the SIM card. Unless expressly agreed otherwise, the SIM cards are not included in the scope of delivery owed by CHARGE-V.
3. CHARGE-V grants the Customer an unlimited, non-exclusive and non-transferable right to use the software installed on the charging pole and any documentation and other components provided. However, the customer is not entitled to copy, modify or store or use the software other than for the operation of the charging pole. In particular, the customer shall refrain from decompiling or disassembling the software or using any part of the software to create a separate application.

4. The Customer is obliged to allow updates and settings of the software by CHARGE-V which are necessary for the operation of the product in accordance with the contract.

#### **§ 4 Service description Maintenance services**

1. If it has been agreed that CHARGE-V will provide maintenance services for the charging points, CHARGE-V will maintain the charging point at least once a year in accordance with the recognised rules of technology and the statutory provisions. This includes cleaning the interior of the charging pole as well as cleaning and functionally checking the electronic and mechanical components contained therein and the cables.
2. Repair and maintenance work is not covered by the maintenance services owed. The Customer's rights in respect of defects and claims arising from any agreed durability guarantee shall remain unaffected. If CHARGE-V detects defective components during maintenance or components that are expected to be worn out by the next maintenance, CHARGE-V will inform the Customer of this.
3. During the maintenance work, the charging pole cannot be used in accordance with the contract.

#### **§ 5 Service Description Software Maintenance, SIM Cards**

1. If it has been agreed that CHARGE-V will provide software maintenance services for the charging pole, CHARGE-V will immediately install available security updates on the charging pole via the mobile radio connection. Functional updates and upgrades will be installed after prior information of and approval by the Customer.
2. The installation of updates and upgrades requires an existing mobile radio connection of the charging pole.
3. The charging pole cannot be used for its contractual purpose while the software is being installed.
4. If the supply of SIM cards for the charging pole by CHARGE-V has been agreed, CHARGE-V will supply SIM cards of a network operator of its choice. The costs for the operation of the SIM cards are included in the agreed prices. The Customer may not remove the SIM cards from the charging stations and may not use them for purposes other than for operating the charging stations. The Customer shall return the SIM cards to CHARGE-V immediately after expiry of the contract term or premature termination of the contract.

#### **§ 6 Terms of Delivery, Packaging and Shipping**

1. Unless expressly agreed otherwise or the assembly of the items to be delivered by CHARGE-V has been agreed, the items to be delivered will be provided "Free Carrier" (FCA, Incoterms 2020).
2. If delivery by CHARGE-V has not been expressly agreed as a remunerated service, the place of delivery shall be in front of the registered office of CHARGE-V. If delivery by CHARGE-V has been expressly agreed as a remunerated service and no place of delivery has been agreed, the Customer must notify CHARGE-V in good time of a shipping address to be determined by him in accordance with the agreement. Unless otherwise agreed, CHARGE-V is entitled to determine the type of dispatch (in particular transport company, dispatch route, packaging) at its reasonable discretion.
3. The Customer may not refuse to accept deliveries due to insignificant defects.
4. Partial deliveries which have not been agreed are permissible insofar as the partial delivery is usable for the Customer within the scope of the contractual intended purpose, the delivery of the remaining ordered goods is ensured and the Customer does not incur any significant additional expenditure or additional costs as a result of the partial delivery which CHARGE-V has not agreed to bear.
5. At the request and expense of the Customer, CHARGE-V will insure the deliveries against the usual transport risks.

#### **§ 7 Deadlines and default**

1. If non-compliance with agreed deadlines for deliveries or services is due to circumstances for which CHARGE-V is not responsible, which are unforeseeable and which cannot be avoided by reasonable measures, in particular due to
  - a) force majeure (e.g. mobilisation, war, acts of terrorism, riots, epidemics) or their effects (e.g. measures ordered by law or the authorities to avert or limit the effects of such events),
  - b) strike or a lockout ordered by the employers' professional association in the business of CHARGE-V or in a business working directly for CHARGE-V or supplying CHARGE-V,

- c) virus and other attacks by third parties on the IT system of CHARGE-V, insofar as these occurred despite compliance with the usual care in the case of protective measures,
- d) obstacles due to German, US-American and other applicable national, European or international regulations of foreign trade law or
- e) untimely delivery to CHARGE-V by its suppliers if CHARGE-V has concluded a congruent hedging transaction and neither CHARGE-V nor the supplier is at fault or CHARGE-V is not obliged to procure in the individual case,

the deadlines shall be extended by the duration of the disruption and an appropriate surcharge for the resumption of the provision of services. CHARGE-V will inform the Customer of this without delay and at the same time inform the Customer of the expected new performance period. If the performance is also not possible within the new performance period or within three months after the originally agreed period for the reasons stated in sentence 1, each contractual partner may terminate the contract with regard to the services not yet performed by CHARGE-V; CHARGE-V will immediately reimburse any advance payments made by the Customer for the services not yet performed. The statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance) or default, shall remain unaffected.

- 2. At the request of CHARGE-V, the Customer is obliged to declare within a reasonable period of time whether it will terminate the contract due to the delay in performance or insist on performance.
- 3. If dispatch or delivery is delayed by more than one month at the request of the Customer, if the Customer is in default of acceptance or if delivery is delayed for other reasons for which the Customer is responsible, the Customer shall pay a lump-sum compensation for the resulting damage and expenses (including additional expenses such as storage costs) for each month of delay or part thereof, beginning with the delivery deadline or - in the absence of a delivery deadline - with the notification of readiness for dispatch or collection, in the amount of 0.5% of the price agreed for the deliveries to be dispatched or delivered late. Both contracting parties reserve the right to prove higher or lower damages.

#### **§ 8 Retention of title and other security rights**

- 1. The items of the deliveries (hereinafter: reserved goods) remain the property of CHARGE-V until fulfilment of all payment claims to which CHARGE-V is entitled against the Customer under the contract and an ongoing business relationship.
- 2. During the existence of the retention of title, the Customer is prohibited from pledging or assigning the goods subject to retention of title as security.
- 3. The customer is authorised, until revoked, to resell and/or process the reserved goods in the ordinary course of business in accordance with the following conditions:
  - a) The retention of title extends to the full value of the products created by processing, mixing or combining the goods subject to retention of title, whereby CHARGE-V is deemed to be the manufacturer. The processing is carried out for CHARGE-V. The Customer shall keep the resulting new item for CHARGE-V with the diligence of a prudent businessman and shall store it separately and label it as the property of CHARGE-V. The new item shall be deemed to be goods subject to retention of title. If, in the event of mixing or combining with goods of third parties, the latter's title remains, CHARGE-V shall acquire co-ownership in proportion to the invoice values of the mixed or combined goods. In all other respects, the same applies to the resulting product as to the goods subject to retention of title.
  - b) The Customer hereby assigns to CHARGE-V by way of security the claims against third parties arising from the resale of the reserved goods or the product in total or in the amount of any co-ownership share of CHARGE-V in accordance with the above letter. CHARGE-V accepts the assignment.
  - c) The Customer remains authorised, in addition to CHARGE-V, to collect the claims from the resale. However, CHARGE-V may only collect the claims if there is good cause and after assertion of the rights under clause 5. An important reason exists in particular if the Customer is in default of payment vis-à-vis CHARGE-V or if the Customer's ability to pay is lacking within the meaning of Section 321 of the German Civil Code (BGB). As soon as CHARGE-V is entitled to collect the claims, the Customer must notify CHARGE-V of the assigned claims and their debtors, provide all information required for collection, hand over the associated documents and inform the debtors (third parties) of the assignment. In addition, CHARGE-V is entitled in this case to revoke the Customer's authority to further sell and process the goods subject to retention of title.

4. In the event of seizures, attachments or other dispositions or interventions by third parties, the Customer must immediately notify CHARGE-V in writing. In the event that a justified interest is substantiated, the Customer must immediately provide CHARGE-V with the information required to assert its rights against the Customer's client and hand over the necessary documents.
5. In the event of breaches of duty by the Customer, in particular in the event of default in payment, CHARGE-V is entitled, after the unsuccessful expiry of a reasonable deadline set for the Customer to perform, insofar as this is not dispensable under the statutory or contractual provisions, to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the reserved goods on the basis of the reservation of title. Subject to a declaration to the contrary, the demand for surrender shall not be associated with a withdrawal from the contract.
6. Insofar as the value of all security interests to which CHARGE-V is entitled exceeds the amount of all secured claims by more than 10 %, CHARGE-V will release the exceeding part of the security interests at the request of the Customer.

#### **§ 9 Use of subcontractors**

CHARGE-V is entitled to have owed services or work performed by subcontractors. The Customer may object to the use of a particular subcontractor if there is good cause.

#### **§ 10 Rights in case of defects**

1. If the Customer can demand subsequent performance due to a defect, CHARGE-V has the right to choose whether to remedy the defect by rectification or new delivery/reproduction. The right to refuse subsequent performance under the statutory conditions remains unaffected.
2. Claims for defects shall become statute-barred 12 months after commissioning of the charging pole, but no later than 15 months after the statutory start of the limitation period. This period does not apply to claims for defects in accordance with §§ 438 Para. 1 No. 2 or 634a Para. 1 No. 2 of the German Civil Code (for building materials or construction or construction planning/monitoring services), in the event of recourse in the supply chain of a consumer goods purchase (§ 478 of the German Civil Code), in the event of intent, fraudulent concealment of the defect and non-compliance with a quality guarantee. The statutory provisions on suspension of expiry (in particular from § 445b para. 2 BGB), suspension and recommencement of the periods shall remain unaffected.
3. Defects shall be notified in text form without delay. If the contract is a commercial transaction, § 377 of the German Commercial Code (HGB) (obligation to examine and give notice of defects) shall also apply to contracts other than contracts of sale and contracts for work and materials. The Customer must inspect goods intended for installation or other further processing at the latest immediately before processing, insofar as CHARGE-V does not owe the installation or further processing.
4. A material defect shall not be deemed to exist in the event of only insignificant impairment of the suitability for the intended or customary use under the contract.
5. Claims under a right of recourse of the Customer against CHARGE-V pursuant to § 445a of the German Civil Code (recourse of the entrepreneur) exist only to the extent that the Customer has not entered into any agreements with its customer that go beyond the statutory claims for defects.
6. Claims for damages by the Customer due to a defect exist only in the cases regulated in § 12 number 1. This provision does not imply a change in the burden of proof to the detriment of the customer.
7. The provisions of sections 1 to 5 do not apply to claims of the Customer against CHARGE-V under section 445a of the German Civil Code (recourse of the Seller) if the last contract in the supply chain is a consumer goods purchase.
8. CHARGE-V provides advice to the best of its knowledge based on its own experience, but to the exclusion of any liability. Details and information on the suitability and application or use of the subject matter of the contract are non-binding if they are not expressly an agreed quality. They do not exempt the customer from carrying out his own tests.

#### **§ 11 Industrial property rights and copyrights**

1. Unless otherwise agreed, CHARGE-V is obliged to provide the delivery free of industrial property rights and copyrights of third parties (hereinafter: property rights) only in the country of the place of delivery. If a third party asserts justified claims against the Customer due to the infringement of property rights by deliveries provided by CHARGE-V and used in accordance with the contract, CHARGE-V shall be liable to the Customer as follows:

- a) CHARGE-V will, at its discretion and at its expense, either obtain a right of use for the deliveries concerned, modify them in such a way that the property right is not infringed or replace them.
  - b) The obligation of CHARGE-V to pay damages is governed by § 12.
2. The Customer is obliged to notify CHARGE-V in text form without delay of the claims asserted by the third party, not to acknowledge an infringement of rights or the existence of claims and, in the defence against these claims, to proceed only with the consent of CHARGE-V. If the Customer discontinues the use of the delivery in order to mitigate damages or for other important reasons, it is obliged to inform the third party that the discontinuation of use does not constitute an acknowledgement of an infringement of property rights.
  3. Claims of the customer shall be excluded insofar as the customer is responsible for the infringement of property rights.
  4. Claims of the Customer are also excluded insofar as the infringement of property rights is caused by special specifications of the Customer, by a use of the goods not foreseeable by CHARGE-V or by the fact that the goods are modified by the Customer or are used together with products not supplied by CHARGE-V.
  5. Insofar as an existing infringement of property rights also constitutes a material defect or defect of title, the provisions of § 10 shall apply accordingly in addition to the above provisions.
  6. If CHARGE-V has to perform according to information, drawings, models, samples or use of parts provided by the Customer, the Customer shall be liable for ensuring that industrial property rights of third parties are not infringed thereby. CHARGE-V will draw the Customer's attention to property rights of which CHARGE-V is aware. The Customer shall indemnify CHARGE-V against all claims of third parties and shall pay compensation for the damage incurred. If CHARGE-V is prohibited from manufacturing or delivering by a third party with reference to an industrial property right belonging to it, CHARGE-V shall be entitled to discontinue the work without examining the legal situation, insofar as the alleged industrial property rights are not obviously opposed to the manufacture or delivery.
  7. CHARGE-V is entitled to the property rights to the models, moulds and devices, drafts and drawings designed by CHARGE-V or by a third party on behalf of CHARGE-V, even if the Customer has assumed the costs thereof.

## **§ 12 Other claims for damages**

1. CHARGE-V shall only be liable for damages in the event of intent and gross negligence. In the case of simple negligence, however, CHARGE-V is liable
  - a) without limitation for damage arising from injury to life, body or health,
  - b) for property damage or financial loss arising from the breach of a material contractual obligation (obligation the fulfilment of which is a prerequisite for the proper performance of the contract and the observance of which the contractual partner regularly relies on and may rely on, e.g. handover of the charging columns, enabling the use of the software in accordance with the contract), limited to the amount of the damage that was foreseeable and typical for the contract at the time of conclusion of the contract,
  - c) in the event of loss of data for the expense of its recovery and provided that the Customer has backed up the data in machine-readable form on a daily basis or has expressly authorised CHARGE-V in writing to store the data for the agreed period.

These limitations and exclusions of liability do not apply insofar as CHARGE-V has fraudulently concealed a defect or has assumed a guarantee for the quality of an item or other service and for claims of the Customer under the Product Liability Act.

2. The above provisions do not imply a change in the burden of proof to the detriment of the Customer.

## **§ 13 Durability guarantee**

1. If a durability guarantee has been agreed, CHARGE-V will replace all defective components of the charging pole, insofar as the following conditions are met:
  - a) The customer or operator of the charging pole has registered the charging pole in CHARGE-V's online portal.
  - b) CHARGE-V learns of the defect before the end of the warranty period.



- c) The defect was not caused by external influences (e.g. vandalism, theft, force majeure, lightning, flooding) or deliberate or grossly negligent operating errors. CHARGE-V shall bear the burden of proof for the non-existence of the precondition.
  - d) The Customer has agreed maintenance and software maintenance services with CHARGE-V, the term of which has not yet expired at the time of the occurrence of the defect as a result of a termination declared by or on behalf of the Customer. The existence of this precondition is not required if CHARGE-V has not offered the Customer the agreement of maintenance and software care services prior to the agreement of the durability guarantee.
2. The warranty period begins with the commissioning of the charging pole, but no later than 3 months after the statutory start of the limitation period for claims for defects. The warranty period is 5 years unless otherwise agreed.

#### **§ 14 Rights to documents**

Ownership rights and copyrights to cost estimates, drawings, calculations and other documents (hereinafter: documents) provided by CHARGE-V to the Customer shall only pass to the Customer if expressly agreed. The Documents may only be made accessible to third parties with the prior consent of CHARGE-V and must be returned to CHARGE-V without undue delay upon request if a contract with CHARGE-V does not come into existence or if the contract ends by performance or in another way (e.g. termination, rescission). Sentences 1 and 2 shall apply mutatis mutandis to documents of the Customer; however, these may be made accessible to third parties to whom CHARGE-V has permissibly transferred services and, if they were sent prior to conclusion of the contract and no contract was concluded, they may be destroyed three months after acceptance of the offer if the Customer does not request their return beforehand.

#### **§ 15 Prices and terms of payment**

1. The agreed prices are exclusive of the applicable statutory value-added tax.
2. If CHARGE-V has undertaken assembly or service work and nothing to the contrary has been agreed, the Customer shall reimburse, in addition to the agreed remuneration, the necessary ancillary costs such as travel and transport costs as well as daily allowances upon proof.
3. Fees for services to be rendered on a one-off basis shall be paid within 14 days of receipt of the invoice and delivery or acceptance. Agreed fees for services to be provided on a regular basis (e.g. maintenance and software maintenance) will be invoiced annually in advance by CHARGE-V; they are to be paid within 14 days of receipt of the invoice and the start of the invoicing period.
4. Insofar as a cash discount deduction is agreed for payment within a certain cash discount period, this shall only be granted if the justified invoice amount is received in full by CHARGE-V within the agreed cash discount period. The discount period begins with the payment period in clause 3.
5. Invoices shall be issued exclusively electronically. The Customer agrees to receive the invoices in PDF form by e-mail.

#### **§ 16 Term of the contract, termination and price adjustment for continuing obligations**

1. Insofar as services to be provided on a regular basis, such as maintenance services or software maintenance, have been agreed, the term of the contract shall be 24 months from delivery or acceptance, unless a different term has been agreed. The term of the contract shall be extended by 12 months in each case unless one of the contractual partners objects to the extension of the contract in text form no later than two months before the expiry of the term of the contract.
2. CHARGE-V is entitled to change the agreed fees for services to be provided on a regular basis with effect from the beginning of an extension of the term of the contract if and to the extent that, after conclusion of the contract or a previous adjustment of the fees, the costs change which CHARGE-V must incur to provide the services owed to the Customer, e.g. due to collective wage agreements for its own employees or changes in the prices of the services and works purchased by CHARGE-V from third parties (in particular costs for the acquisition of renewed electronic components or electronic components). e.g. due to collective wage agreements for its own employees or changes in the prices of the services and works to be procured by CHARGE-V from third parties (in particular costs for the acquisition of electronic components to be renewed or maintenance services to be provided). The Customer shall be notified in text form of the scope of the change in charges at the latest one month before the expiry of the term of the contract in accordance with clause 1. The changes in costs on which the change in charges is based shall be communicated to the customer upon request.

3. If the charges increase by more than 10%, the customer may terminate the contract with one week's notice to the end of the current contract term.
4. The right to terminate for good cause remains unaffected. An important reason entitling CHARGE-V to extraordinary termination exists, inter alia, if
  - a) the Customer or, permissibly, a creditor of the Customer applies for the opening of insolvency proceedings against the assets of the Customer or comparable proceedings, such proceedings are opened or their opening is rejected for lack of assets,
  - b) the customer initiates his liquidation,
  - c) the customer has repeatedly breached contractual obligations,
  - d) the customer is at least 60 days in arrears with the payment of the fee despite the expiry of a reasonable grace period set after the occurrence of the default.
5. Any termination must be in text form.

#### **§ 17 Data protection**

1. CHARGE-V may process customer and personal data within the meaning of Art. 4 No. 2 DSGVO, insofar as this is necessary to enable the Customer to use the contractually owed services or in order to invoice the agreed fees. The Customer declares his consent that CHARGE-V only provides necessary, required data to cooperation partners for the execution of the services. This includes in particular affiliated companies and service providers for maintenance services and IT support.
2. CHARGE-V ensures that all personal data is protected against unauthorised access or insight by third parties. All employees and cooperation partners are obliged by non-disclosure agreements not to communicate any data of the Customer to third parties.
3. Further information on the processing of personal data is available on the CHARGE-V homepage (<https://www.charge-v.com>).

#### **§ 18 Offsetting, rights of retention, assignment**

1. The customer shall only be entitled to rights of set-off or retention if its counterclaims have been legally established or are undisputed or its counterclaims are based on the same contractual relationship.
2. The Customer's claims against CHARGE-V may only be assigned or legally pledged with CHARGE-V's consent.

#### **§ 19 Place of performance**

The place of performance for all legal and contractual direct or indirect claims is the registered office of CHARGE-V.

#### **§ 20 Final provisions, choice of law, place of jurisdiction, formal requirements**

1. The contract shall be governed by the law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
2. If the Customer is a merchant, a legal entity under public law or a special fund under public law, the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Munich. CHARGE-V is, however, also entitled to bring an action at the registered office of the Customer. This agreement on the place of jurisdiction shall not apply to dunning proceedings or insofar as an exclusive place of jurisdiction is established by law.
3. All ancillary agreements, amendments or declarations to or in connection with this contract must be in text form, unless a stricter form is prescribed by contract or by law. This also applies to the cancellation of this text form agreement.
4. Should one of the provisions of these General Terms and Conditions or of the other parts of the contract be invalid or should the contract, including these General Terms and Conditions, contain a loophole in its entirety, the validity of the remaining contractual provisions shall not be affected thereby. Insofar as the invalidity of the contractual provision is not due to legal regulations which serve the protection of a contractual partner, the invalid provision shall be replaced by a valid one and a missing provision shall

be inserted in such a way that the intention of the contractual partners expressed in the contract and the meaning of the contract are complied with as far as possible.

End of the General Terms and Conditions