



### Article 1 Definitions

1.1 In these terms and conditions, the following capitalized terms have the following meanings, unless expressly stated otherwise or the context otherwise requires (words in the singular also indicate the plural and vice versa), whereas to the extent this is considered useful behind some words used in these TCs the Dutch legal term as used in the DCC is added between brackets:

**Agreement:** the agreements between ChargeSim and the Customer;

**ChargeSim:** the user of these TCs, being ChargeSim B.V. a private company with limited liability incorporated under Dutch law, having its office in (5611 LK) Eindhoven, the Netherlands at Elzentlaan 87, registered with the Dutch trade register under number 75827999;

**Confidential Information:** the Offer, the Agreement, the Products, the Services, as well as all correspondence, information, knowledge and/or documentation relating to ChargeSim, supplied by ChargeSim and/or otherwise in the possession of and/or that has come to the knowledge of the Customer in the context of the preparation, conclusion and/or execution of the Agreement;

**Customer:** an opposing party, customer and/or supplier of ChargeSim and the legal entities affiliated with said party, customer or supplier;

**DCC:** Dutch Civil Code;

**Delivery/ed:** as referred to in articles 3:84 and 3:90 DCC, meaning that the required transfer of possession takes place as soon as the goods: (i) leave the premises of ChargeSim or come into the possession of the Customer, whatever occurs first;

**In writing:** by letter or by electronic means (such as via e-mail or messaging), by fax or by any other means of telecommunication capable of conveying written text legibly and reproducibly, including messages on a website or by EDI;

**Product:** a good, as referred to in article 3:1 DCC, delivered or to be delivered by ChargeSim to the Customer, including in any case, but not limited to, the applied labels and packaging materials;

**Quotation:** an offer of ChargeSim, including, but not limited to, quotations, price lists and other statements, whether or not by representatives, agents and/or employees of ChargeSim as well as relevant information contained in mailings from ChargeSim or mentioned on the Website;

**Service:** a service provided to the Customer or work performed for the Customer, by ChargeSim;

**TCs:** these general terms and conditions;

**User:** a natural person who uses a Service, Product or the Websites;

**Viewer:** a User that uses a Service, Product or the Websites by means of a viewer/presenter account that can view, but not edit the data.

**Website:** [www.chargesim.com](http://www.chargesim.com) and [www.chargesim.io](http://www.chargesim.io) including any platform accessible through it.

1.2 These TCs apply to all present and future Quotations and to all Agreements, including additional and follow-up orders issued to ChargeSim. If the Customer is a consumer as referred to in article 6:193a DCC, these TCs apply to the extent permitted by law. The applicability of other general terms and conditions, whether or not used by the Customer, including purchase conditions, is expressly rejected, even in the event that the Customer has referred to such conditions earlier. If and to the extent that other general terms and conditions are (also) applicable, these TCs prevail in the event of contradictions and/or inconsistencies.

1.3 If any part of these TCs is void or voidable, this does not affect the validity of the remaining part of these TCs. In that case, in accordance with the provisions of article 3:42 DCC, what the parties would have agreed had they been aware of the nullity or voidability will be deemed to have been agreed in lieu of the void or voidable part(s). The same holds true to the extent that certain non-Dutch laws and/or regulations apply to or affect the outcome of these TCs in a way that is detrimental for ChargeSim.

1.4 Any additions to, and/or derogations from these TCs will be valid only if agreed in writing by the parties and signed by an authorised representative of ChargeSim. Any derogations from these TCs, applied, permitted or tolerated by ChargeSim at any time, will never grant the Customer the right to invoke such derogations, or to claim that such derogating clauses apply to it.

1.5 In the event of inconsistencies, contradictions and/or differences between language versions of these TCs, the original English version prevails. In the event of inconsistencies, contradictions and/or differences between these TCs and a Quotation or Agreement, the respective Quotation or Agreement prevails.

1.6 Interim unilateral amendments to these TCs by ChargeSim are permitted at all times. In the event of interim amendments to these TCs the Customer will be entitled to dissolve (opzeggen) the Agreement in writing, subject to the agreed period of notice. If no period of notice is agreed the Customer is to take into consideration a reasonable period of notice with due regard for the interests of ChargeSim. For a period of notice to be considered reasonable within the meaning of this article it should not be shorter than three (3) months.

1.7 The records and itemised statements of ChargeSim are binding on the Customer, save evidence to the contrary to be provided by the Customer. For the purpose of determining the scope of the Customer's payment obliga-



tions, the records of ChargeSim are decisive, unless the Customer provides evidence to the contrary. The quantities, dimensions, specifications and weights stated in the invoice or consignment note are deemed to be correct, save evidence to the contrary to be provided by the Customer.

1.8 Unless expressly agreed otherwise in writing, the Customer's claims against ChargeSim cannot be assigned, pledged or otherwise be subjected to encumbrance or assignment under any title whatsoever. These restrictions apply both to property law and contract law.

1.9 Insofar as the Agreement relates to (standard) software, to the extent permitted by law, the applicability of title 7:1 DCC is excluded, with the exception of the articles 7:9 (paragraph 2), 7:10 and 7:23 DCC with the proviso that the term referred to in this last article amounts to fourteen (14) days.

1.10 ChargeSim is authorised to assign, transfer or encumber its rights under a Quotation or Agreement or its legal relationship thereunder. The Customer is deemed to have given its consent by entering into the Agreement. The Customer undertakes to provide ChargeSim with all necessary cooperation, assistance, information, documents and/or data to this end.

### Article 2 Formation of the Agreement

2.1 Quotations are subject to contract and may be revoked, without any formalities being required, even after acceptance by the Customer. Any commitments or promises made by ChargeSim, whether or not by any of its representatives, agents and/or employees, are not binding on ChargeSim, unless confirmed in writing by an authorised representative of ChargeSim.

2.2 A Quotation expires if the Product, Service or good to which the Quotation relates is no longer available.

2.3 The Agreement, as well as any changes and additions to it, is not binding on ChargeSim, unless and until confirmed in writing by an authorised representative of ChargeSim. The Customer can only derive rights from such a change or addition after it has been confirmed in writing by an authorised representative of ChargeSim. If, according to ChargeSim, the Customer requests a change to the Agreement or Quotation tardively or a change that is too far-reaching, the respective Agreement or Quotation applies in full (unchanged) and the Customer must purchase the Services and/or Products described therein.

2.4 Acceptance of a Quotation that differs from the contents of the Quotation is considered a rejection of the original Quotation and a new Quotation that is not binding on ChargeSim. The same holds true if the acceptance differs from the Quotation only on minor points.

2.5 Notwithstanding the Customer's statutory rights regarding termination by a competent court, Agreements cannot be terminated (opzeggen) by the Customer extrajudicially without express prior written consent of ChargeSim, unless the parties have reached agreement in writing regarding the compensation to be paid by the Customer to ChargeSim for such termination.

2.6 Manifest errors in Quotations release ChargeSim from its obligation to perform, as well as from its obligation to compensate any ensuing damage, until ChargeSim has accepted the order in writing or delivered or invoiced the Product, Service or good to which the Quotation relates.

2.7 If multiple items are offered in a Quotation, the Quotation only applies as a whole and the Customer is not entitled to accept only part of the items offered, regardless of whether the relevant Quotation mentions a price per item.

2.8 If the Agreement is not laid down in writing and ChargeSim nevertheless commences performance of the Agreement with the Customer's consent, the contents of the Quotation will be deemed to constitute the Agreement.

2.9 ChargeSim is authorised to Deliver in consignments, which ChargeSim may invoice separately. In the event of Delivery in consignments, the Agreement will be deemed to have been effectively concluded as soon as the first consignment is Delivered.

2.10 Notwithstanding paragraph 2 of article 7:408 DCC, until the time of Delivery, ChargeSim is entitled to terminate (opzeggen) the Agreement immediately, without taking into considering a notice period, if it feels that there are good reasons to do so, without any liability arising on its part to pay damages. Termination takes place in writing. If, according to ChargeSim, the Customers requests a change to the Agreement tardively or a change that is too far-reaching, this qualifies as a good reason as referred to in this article.

2.11 Agreements are entered into under the suspensive condition that the information to be obtained by ChargeSim shows that the Customer is sufficiently creditworthy.

### Article 3 Prices

3.1 Unless expressly agreed otherwise in writing, all prices stated by ChargeSim at any time only apply to the specific Quotations in which they were included and are in euros, exclusive of VAT, import duties, packaging, transport, insurance and other taxes or duties.

3.2 Unless expressly agreed otherwise in writing, all prices will be ex works (EXW) within the meaning of Incoterms® 2010, location Eindhoven, the Netherlands.



3.3 All prices are based on the exchange rates, import duties, taxes, levies and other price-determining factors applicable at the time the Agreement was entered into.

3.4 ChargeSim expressly reserves the right to change its prices if and to the extent price-determining factors, including, but not limited to the factors referred to in the previous paragraph of this article, give cause to do so. The same holds true if the price-increasing factor was foreseeable at the time the Agreement was entered into. Price changes will not take effect until the Customer has been notified of it in writing.

3.5 ChargeSim is entitled to adjust any hourly rates and/or fees applied. If the performance of the Agreement covers a period of more than one (1) month, ChargeSim is entitled to require interim payments from the Customer for the work performed or Services delivered.

3.6 ChargeSim is entitled to require an advance payment from the Customer and/or to set off advances received from the Customer against outstanding invoices or other amounts due to it by the Customer, on whatever ground, regardless of whether the advance relates to the same or a different Agreement than that to which the outstanding invoice or amount due relates.

### Article 4 Performance

4.1 Unless expressly agreed otherwise in writing, ChargeSim is subject to a best-efforts obligation (inspanningsverplichting), based on the nature of the Agreement and the information provided to it by the Customer. ChargeSim uses all commercially reasonable efforts to achieve maximum uptime with regard to the Products, Services and the Websites, but ChargeSim does not warrant constant availability and/or operation of any Products, Services or the Websites. In no event will ChargeSim be liable for damage as a result of outage or downtime.

4.2 Maintenance to a Product, Service or the Websites may be performed at any time, even if it adversely affects the availability and/or operation of a Product, Service or the Websites. As far as possible, maintenance work will be announced in advance.

4.3 ChargeSim is never in default by the mere lapse of a period, including the delivery term. At all times, default requires a written notice of default, granting ChargeSim a reasonable term, being at least one (1) month, to perform as yet.

4.4 If and as soon as ChargeSim cannot perform the Agreement in the agreed and/or customary manner, the Customer must compensate any costs incurred and damages suffered by ChargeSim as a result, unless the non-performance is not due to an impediment of the Customer or any other cause to be attributed to the Customer. If the Customer refuses to accept Delivery of Products or Services at such time as they are made available to it or fails to provide information that is necessary for Delivery of Products or Services, ChargeSim is entitled to store the Products and maintain the Services at the Customer's expense and risk. After a period of four (4) weeks from the original date of delivery, ChargeSim is entitled to sell the relevant Products and Services to third parties. The costs of storage, maintenance and sale, as well as any losses and/or loss of profit are payable by the Customer.

4.5 Unless expressly agreed otherwise in writing, all Deliveries will be ex works (EXW) within the meaning of Incoterms® 2010, location Eindhoven, the Netherlands.

4.6 Unless expressly agreed otherwise in writing, Products and Services are at the Customer's risk from the moment of Delivery. The receipt signed by the Customer or by the person representing the Customer, if any, serves as conclusive evidence of Delivery.

4.7 Delivery periods will not take effect until the Agreement has been effectively concluded, agreement has been reached on all details, and ChargeSim has all data and suchlike necessary for the performance of the Agreement.

4.8 Delivery periods are based on the circumstances applicable at the time the Agreement was entered into. In the event of delay arising as a result of a change in these circumstances, the delivery period will automatically be extended accordingly, without prejudice to the provisions below on force majeure.

4.9 ChargeSim is entitled to outsource the performance of all or part of the Agreement to third parties and/or to have third parties perform all or part of the Agreement, with the Customer's consent for customer or project specific assignments. Each Agreement or orders issued to ChargeSim implies the authority on the part of ChargeSim to engage third parties and to accept any limitations of liability of third parties on behalf of the Customer. ChargeSim is not liable for the choice or any shortcomings of these third parties, except in case of intent or willful recklessness on the part of ChargeSim. To the extent permitted by law, the applicability of 6:76 DCC is excluded. Engagement by the Customer of third parties in the performance of the Agreement requires the express prior written consent of ChargeSim

4.10 The Customer must inform ChargeSim of all facts and circumstances that may be relevant for the proper performance of the Agreement and to provide all data and information required by ChargeSim without delay, even after ChargeSim has commenced performance of the Agreement.

4.11 The Customer guarantees (garantieplichting) to ChargeSim the correctness and completeness of all data and information made available to ChargeSim. ChargeSim is never liable for damage resulting from any inaccuracy and/or incompleteness of data and/or information made available to it by or on behalf of the Customer nor for damage





resulting from any inaccuracy and/or incompleteness of data and/or information used (inputted) by the Customer within the framework of the Products, Services and/or Websites.

4.12 The Customer must reimburse ChargeSim for all (additional) costs and work resulting from a change to the Agreement requested by the Customer and agreed in writing, including the costs.

4.13 The costs and additional work referred to in the previous paragraph of this article are calculated on the basis of the same price-determining factors and method of calculation applicable at the time the costs are incurred or the additional work is performed or, at the option of ChargeSim, when the Agreement was entered into.

4.14 Agreements are executed by ChargeSim exclusively for the benefit of the Customer. Third parties cannot derive any rights from the Products and/or Services nor from the way in which the Agreement has or has not been performed.

4.15 If the Customer or a User does not use a Service, Product or the Website for twenty-four (24) months or longer, ChargeSim has the right to permanently deny the Customer/User access to the Service, Product or the Website, without being liable to pay any form of compensation.

4.16 From the moment a subscription ends, or an account is closed, for whatever reason, the data stored therein is no longer accessible, even if the subscription or account is reactivated at a later time. ChargeSim is never liable for lack of access to data or loss of data.

4.17 It is strictly forbidden for the Customer to use or make use of any account or subscription provided by ChargeSim or any Service, Product or the Website in violation of any applicable laws or regulations.

4.18 On the Website or within any account or subscription provided by ChargeSim the Customer must refrain from indecent, pornographic, erotic or otherwise undesirable publications, from publications that violate or could violate the rights of third parties or from actions that (could) cause damage to ChargeSim, its reputation, Products, Services, the Websites and/or the (computer) systems of ChargeSim or of third parties.

### Article 5 Complaints and warranty

5.1 The Customer must inspect the Products and Services immediately upon Delivery for, inter alia, defects, quality and quantities.

5.2 The Customer can no longer rely on non-conformity, if it fails to notify ChargeSim of such non-conformity in writing within eight (8) days of Delivery. Non-visible defects, if any, will be subject to a term of fourteen (14) days following discovery of the defects. The notification must be in writing and contain a description of the complaint in as much detail as possible, so that ChargeSim is able to respond adequately. The Customer must give ChargeSim the opportunity to investigate, or cause third parties to investigate a complaint.

5.3 ChargeSim is under no obligation to handle complaints regarding minor discrepancies that are deemed admissible in the industry or that are technically unavoidable.

5.4 If and to the extent that ChargeSim determines that a complaint is justified, at the option of ChargeSim, a new or additional Delivery will be made or a (proportional) reduction of the price will be applied.

5.5 The Customer must notify ChargeSim in writing of any complaints regarding invoices sent by ChargeSim within five (5) days of the date of the invoice. After expiry of such period, complaints can no longer be handled, and the Customer will have waived all its (alleged) rights.

5.6 Unless expressly agreed otherwise in writing, ChargeSim never warrants that Products, Services or the Websites are fit for a particular purpose.

5.7 ChargeSim is under no obligation to provide other goods than those listed in the Agreement, such as assembly, replacement and/or installation materials, software, batteries, cables and/or other accessories.

5.8 ChargeSim will make commercially reasonable efforts (inspanningsverplichting) to ensure operating instructions and documentation accompanying the Products, Services or the Websites are error-free and that the Products, Services or the Websites possess the properties specified in these instructions, but ChargeSim will not be liable for minor errors or errors it fixed within a reasonable period of time after having been given notice of such error.

5.9 Only if this has been expressly agreed in writing, ChargeSim will install, configure and/or connect the Products, Services or the Websites. Any obligation of ChargeSim to install, configure and/or connect does not include data conversion or the instalment of software, unless expressly agreed otherwise in writing.

5.10 Any warranty issued by ChargeSim will lapse irrevocably if the defects are due to improper use, external causes or force majeure.

5.11 The Customer must discontinue, or cause third parties to discontinue, the use of a Product or Service upon discovery of a defect and to retain it in order to give ChargeSim the opportunity to conduct, or cause third parties to conduct an investigation, until the complaint has been fully settled by ChargeSim.

5.12 In no event will the filing and/or existence of complaints, or any returns that were not accepted, which will not be unreasonably withheld, in writing by ChargeSim, release the Customer from its payment obligations. ChargeSim will make commercially reasonable efforts to resolve the complaint.



5.13 If it is established that a complaint is unfounded, the Customer must compensate ChargeSim for any costs incurred (including the costs of investigation) and damages suffered as a result.

### Article 6 Payment and security

6.1 Unless expressly agreed otherwise in writing or otherwise stated on the invoice, the Customer must pay ChargeSim within fourteen (14) days of the date of the invoice. If an invoice is not paid in full on the due date, the Customer is in default by the mere expiry of the payment term without any summons or notice of default being required.

6.2 If ChargeSim has not received payment within the term referred to in the previous paragraph of this article, the Customer must pay ChargeSim interest equal to the statutory commercial interest pursuant to Article 6:119a DCC plus two percent (2%) and all claims of ChargeSim against the Customer, on whatever basis, become immediately due and payable in full. For the computation of the interest on the amount due, part of a month is counted as a full month.

6.3 If ChargeSim has not received payment within the term referred to in the previous paragraph of this article after the Customer was given an additional 14 days grace period by ChargeSim through written notice, the Customer must compensate ChargeSim for all costs incurred by ChargeSim to collect outstanding amounts, in particular:

a: invoices from lawyers in respect of their services, both in and out of court, even if they exceed the amounts assessed by the court, costs of bailiffs, agents and collection agencies, as well as all costs of enforcement. The extra-judicial costs are set at fifteen percent (15%) of the principal amount and at twenty percent (20%) for a Customer established outside the Netherlands, subject to a minimum of EUR 150 (one hundred fifty euros);

b: the costs of filing for bankruptcy.

6.4 The payments made by the Customer will at all times serve to settle all costs and interest due, and subsequently the longest outstanding invoices, even if the Customer states that the settlement relates to a later invoice. All payments must be made without any deduction, discount or setoff.

6.5 If stated in the Quotation, ChargeSim is entitled to require an advance payment or a bank guarantee, or an equivalent security for the payment of the amounts due. ChargeSim is entitled to do so even during the performance of an Agreement and irrespective of whether one or more due and payable invoices have not been paid, or not been paid in full. The Customer must comply with any such requirement. In such event, ChargeSim will also be authorised to suspend performance of its obligations vis-à-vis the Customer, until payment has been made or security has been provided. The same holds true if ChargeSim has reason to doubt the Customer's willingness to pay and/or creditworthiness. If the Customer refuses to comply with the requirements set by ChargeSim, ChargeSim is entitled to consider the agreement terminated, without prejudice to its rights to compensation of all damage, costs and loss of profit.

6.6 If, at any time, attachment is levied against the Customer, the Customer must report this to ChargeSim within twenty-four (24) hours.

6.7 If the Customer is not the end user of what ChargeSim supplies to it, ChargeSim is entitled to notify the end user, in the event of payment arrears of at least 3 (three) months and, if necessary, to enter into an agreement directly with the end user.

6.8 (empty)

6.9 ChargeSim may also exercise its rights described in these TCs vis-à-vis a company affiliated with the Customer, in respect of any claim of ChargeSim against the Customer and/or a company affiliated with the Customer.

6.10 A company is deemed affiliated with another company if such company belongs for 50% or more to the same owner, or is directly or indirectly controlled by, or exercises control over, such other company for 50% or more, and/or forms part for 50% or more of the same group of companies as that other company.

6.11 If ChargeSim has not received payment within the term referred to in paragraph 1 of this article, ChargeSim will be authorised to suspend performance of its obligations vis-à-vis the Customer, with 3 days written notice, until payment has been made, including the suspension of access to the Services, the Websites and/or its accounts/subscriptions without any compensation. Such suspension will not be a cause for dissolution or termination of the Agreement by the Customer.

### Article 7 Liability

7.1 ChargeSim is only liable for any shortcoming to the extent such shortcoming is caused by intent or deliberate recklessness on the part of ChargeSim, or because ChargeSim has acted illegitimately, which can be seriously imputed to it. Liability of ChargeSim vis-à-vis the Customer is at all times limited to the warranty referred to in article 5 of these TCs.

7.2 In no event will ChargeSim be liable if the Customer, Viewer, User or the end user has not, has not fully and/or has not properly followed the recommendations and/or instructions given by ChargeSim and/or any third parties engaged by it. In no event will ChargeSim be liable if the Customer, Viewer, User or end user:

a) provided ChargeSim with or inputted incorrect and/or incomplete data or information;



failed to observe the instructions for use, knowing the Products, Services and Websites are intended for use by competent professionals (engineers), require an appropriate judgement and the application of safety factors;

b) added other products to the Product;

c) failed to keep the Product and/or Service in the prescribed manner;

d) used the Product, Service or Website for purposes other than that for which they are intended;

e) failed to perform proper maintenance;

f) used suggested or default values without proper review by competent professionals (engineers) that such input is appropriate for their application;

g) used the Product, Service or Website while it should, or could reasonably have known that the Product, Service or Website was defective.

7.3 In no event will ChargeSim be liable for damage as a result of Products, Services or the Websites not complying with (local) regulations and/or (safety) requirements, either applicable at the location(s) where the Customer has its registered office or where the customers of the Customer, the Viewers, the Users or the end users have their offices or residency or otherwise.

7.4 ChargeSim will also not be liable for damage if the Customer has or could reasonably have taken out insurance against such damage.

7.5 ChargeSim is not liable for (consultancy) work (including installation and/or assembly work) relating to Products and/or Services or other (consultancy) work, unless an explicit and separate Agreement was concluded with the Customer under which the Customer provides a quid pro quo for the (consultancy) work carried out by ChargeSim. Should ChargeSim be liable on the basis of this article, this liability is limited to the invoice amount of the work that is the subject of the liability.

7.6 In no event will ChargeSim or the Customer be held liable by the other for consequential damage, loss of profit, lost savings, immaterial damage, trading loss or environmental damage.

7.7 In no event will ChargeSim be liable for any damage if the Customer is in default of fulfilling any of its obligation vis-à-vis ChargeSim, at the time of the event causing the damage.

7.8 If and to the extent that, despite the provisions of this article, ChargeSim is liable in any way whatsoever, such liability of ChargeSim will, in case of damage to goods, be limited to the costs of repair and replacement up to the principal as stated in the relevant invoice, or at least to that part of the invoice to which the liability relates. In case of personal injury and in all other cases, the liability of ChargeSim is limited to the payment to which ChargeSim is entitled further to the liability insurance taken out by it. If and to the extent that, for whatever reason, no payment is made under said insurance, the total liability of ChargeSim, regardless of the basis, is limited to twice the amounts ChargeSim received from the Customer in the preceding 12 months in connection with the Services or Products that are the subject of such liability.

7.9 On pain of forfeiture of any claim for damages, the Customer must report claims for damages to ChargeSim in writing, no later than within three (3) months after the Customer has, or could have, discovered the damage.

7.10 Without prejudice to article 6:89 DCC, any claim of the Customer against ChargeSim lapses if, after expiry of one (1) year after the arising of the claim, the Customer has not effectively instituted legal proceedings on the merits against ChargeSim.

7.11 The Customer indemnifies ChargeSim in respect of all costs, damage and interest, including the costs of legal assistance, that may arise as a result of claims from Users or Viewers and/or third-party claims, against ChargeSim, the Customer or otherwise, in respect of occurrences, acts or omissions during, or for purposes of, the use of the Products or Services by the Customer, unless the claim is directly caused by ChargeSim's breach of contract towards the Customer or by intent or deliberate recklessness on the part of ChargeSim. The Customer must take out adequate insurance against the foregoing.

7.12 The limitations of liability contained in these TCs also apply in the event that ChargeSim is liable for shortcomings of third parties engaged by ChargeSim or for outages, the malfunctioning of equipment, software, data files, registers or other items used by ChargeSim in the performance of the Agreement, without exception.

7.13 The Customer guarantees (garantieverplichting) vis-à-vis ChargeSim that it and its employees and contractors, including all third parties involved by or on behalf of the Customer in the Agreement as well as Users and Viewers, comply with the obligations arising from these TCs.

7.14 If the Customer is liable towards ChargeSim such liability of the Customer will, in case of damage to goods, be limited to the costs of repair and replacement up to the principal as stated in the relevant invoice, or at least to that part of the invoice to which the liability relates. In case of personal injury and in all other cases, the liability of the Customer towards ChargeSim is limited to the payment to which the Customer is entitled further to the liability insurance taken out by it. If and to the extent that, for whatever reason, no payment is made under said insurance, the total liability of the Customer towards ChargeSim, regardless of the basis, is limited to twice the amounts invoiced by ChargeSim to the Customer in the preceding 12 months in connection with the Services or Products that are the





subject of such liability.

### Article 8 Force Majeure

8.1 If ChargeSim cannot perform its obligations pursuant to the Agreement, including the warranty obligation referred to in article 5 of these TCs, due to force majeure or due to any other exceptional circumstance, such as fire, work strike, delay in the supply of goods, measures imposed by the state, unexpected defects and/or disruptions at ChargeSim or its suppliers, ChargeSim is entitled to perform all or part of the Agreement at a later moment.

8.2 In the event of a directly apparent permanent force majeure, or if the force majeure has lasted longer than three (3) months, the Customer is entitled to dissolve (opzeggen) the Agreement in whole or in part, without ChargeSim having to pay any compensation or damages to the Customer.

### Article 9 Suspension and Dissolution

9.2 Notwithstanding paragraph 2 of article 7:408 DCC, if and as soon as the Customer is in default, ChargeSim is entitled to terminate (opzeggen) the Agreement in whole or in part. As a result of dissolution, all mutual claims will become immediately due and payable.

9.3 If and as soon as the Customer has been declared bankrupt or an application to that effect has been filed, a petition has been filed with regard to the Customer in respect of a procedure as referred to in Annexes A and/or B to Regulation (EU) No 2015/848 (Insolvency Regulation) or a comparable procedure, the Customer applies for suspension of payments, or loses power of disposition of all or part of its assets as a result of attachment, a guardianship order or otherwise, notwithstanding paragraph 2 of article 7:408 DCC, ChargeSim is entitled to dissolve the Agreement without judicial intervention and without any notice of default being required, unless the receiver or the administrator recognises the obligations ensuing from the Agreement as estate debts.

9.4 The item "loss of profit" will be deemed to be equal to twenty five percent (25%) of the agreed price in the Agreement, save evidence to the contrary to be submitted by ChargeSim.

9.5 If ChargeSim or the Customer rightfully suspends, terminates or dissolves the Agreement, it is under no obligation whatsoever to compensate the other party, beyond the pro-rata value of the Goods or Services delivered.

9.6 The right of ChargeSim to suspend includes the authority to deny the Customer, Viewer or a User access to the Services, the Websites and/or its accounts/subscriptions.

### Article 10 Intellectual property

10.1 All intellectual property rights, including but not limited to copyright, trademark rights, domains, design rights and patent rights, embodied in or arising out of the Services, Products and/or Websites belong exclusively to ChargeSim, its licensors or its suppliers.

10.2 If ChargeSim is prepared to undertake to transfer an intellectual property right, such an undertaking can only be entered into expressly and in writing by a duly authorized representative of ChargeSim.

10.3 If the parties agree in writing that an intellectual property right with regard to software, websites, data files, equipment or other Services or Products specifically developed for the Customer are to be transferred to the Customer, this does not affect the right or the possibility of ChargeSim to use and/or exploit the components, general principles, ideas, designs, algorithms, documentation, works, programming languages, protocols, standards and the like underlying that development, without any restriction, for other purposes, either for itself or for third parties. Likewise, the transfer of an intellectual property right does not affect the right of ChargeSim to make developments similar or derived from those made or to be made, for its own benefit or for that of a third party.

10.4 The Customer acquires the rights of use expressly granted by these TCs, the Agreement and the law. A right of use to which the Customer is entitled is non-exclusive, non-transferable, non-mandatory and non-sublicensable.

10.5 It is strictly forbidden for the Customer to change, remove or bypass any indication(s) concerning the confidential nature or concerning copyrights, brands, trade names or any other intellectual property right from the software, Websites, data files, equipment or other Services or Products or have them changed, removed or bypassed.

10.6 Even if not expressly provided for in the Agreement, ChargeSim is entitled, at all times, to install technical measures to protect the Services, Products or Websites to which the Customer is given access (directly or indirectly), and suchlike in connection with an agreed restriction in the content or duration of the right to use these Services, Products or Websites. It is strictly forbidden for the Customer to change, remove or bypass such technical measures or to have them changed, removed or bypassed.

10.8 The Customer's data input into ChargeSim remains the property of the Customer and will be deleted within 3 months if requested in writing by the Customer.

10.9 The Customer is entitled to use the output data and information provided to it by ChargeSim, but only in connection with the Agreement. These data and this information remains the property of ChargeSim. For the aforesaid use ChargeSim grants a perpetual license to the Customer to duplicate, sublicense or make use of screenshots of



analysis, reports, or data files normally provided by the ChargeSim software as the outcomes of the Customer's analysis, but only within the boundaries of the agreed and intended use of such software and provided they are not modified in contravention with 10.5. ChargeSim product documentation, help information, training material, related information and similar information is confidential and is specifically excluded from this clause.

10.10 The Customer guarantees towards ChargeSim that it has the right to use and sublicense any data which the Customer inputs, submits or uploads to the ChargeSim platform and grants ChargeSim the right to process and store the data in connection with the Agreement. The Customer must compensate any damage suffered and/or costs incurred in connection therewith. The Customer indemnifies ChargeSim against related claims of third parties, or other claims of third parties for infringement of intellectual property rights.

10.11 If a dispute arises about who is the owner of Services, Products and/or Websites or who is the holder of intellectual property rights, ChargeSim is deemed to be the sole owner or holder, save evidence to the contrary to be provided by the Customer.

10.12 If the Agreement ends and/or Delivery has taken place, this article remains in full force between the Customer and ChargeSim.

10.13 The Customer undertakes not to register domain names, trademarks and/or other intellectual property rights (or have them registered) in its own name or in the name of third parties, insofar as these are in any way related to the (trade)name, trademarks, intellectual property rights, Confidential Information or the activities or future activities of ChargeSim and/or its affiliates.

10.14 In the event of violation of the provisions of this article, the Customer forfeits, for the benefit of ChargeSim, without summons or notice of default being required, an immediately payable penalty in the amount of EUR 25.000 (twenty five thousand euros) per violation, to be increased by EUR 1.000 (one thousand euros) per day or part of a day that the violation continues. The foregoing is without prejudice to the Customer's obligation to compensate ChargeSim for all damage that has occurred or will occur as a result of Customer's actions, if and insofar as this damage exceeds (the sum of) the penalty. ChargeSim remains entitled, at all times, to demand compliance with the Agreement and/or a prohibition of the unlawful acts, if necessary, in summary proceedings. The amount of the penalty is increased by the statutory commercial interest pursuant to Article 6:119a DCC, which is due as of the day on which the penalty becomes due and payable.

## Article 11 Privacy

11.1 Both parties shall comply with EU Regulation No 2016/679 (hereinafter GDPR) for processing any personal information, including a) maintaining reasonable security measures to protect personal information, b) limiting any collection or retention of personal information to the strictly necessary, c) promptly informing the other party in the event of a breach of personal data. Both parties will ensure their subcontractors, suppliers and affiliates comply with these provisions in relation to the Agreement.

11.2 Customer will not upload, submit, or input any personal information as defined by GDPR beyond the business contact information or login information of authorized Users/Viewers into ChargeSim.

11.2 The Customer guarantees (garantieverplichting) vis-à-vis ChargeSim that it, as well as its employees and contractors, including all third parties involved by or on behalf of the Customer in the Agreement as well as Users and Viewers, shall fulfill the obligations arising from the GDPR.

11.3 The Customer indemnifies ChargeSim against claims by third parties or data subjects within the meaning of the GDPR in the context of the processing of personal data by or for the benefit of the Customer or for which the Customer is otherwise responsible by law, unless the Customer proves that the facts underlying the claim are directly attributable to ChargeSim.

11.4 The responsibility for the (personal) data processed using a Service, Product or Website lies entirely with the Customer as the sole controller, whereas ChargeSim's responsibility is limited to that of processor (as defined in the GDPR)

11.5 To the extent necessary, by using the Products, Services and/or Websites, the Customer gives explicit consent to ChargeSim for the processing and transfer, including cross-border, of personal data on behalf of the Customer.

## Article 12 Security

12.1 If ChargeSim is required under the Agreement to provide some form of (information) security, such security will meet the security specifications agreed in writing between the Parties. ChargeSim does not warrant that information security is effective under all circumstances. In the absence of an explicitly described method of security, the security will meet a level that is not unreasonable in view of the state of the art at the time of the conclusion of the Agreement, the sensitivity of the data and the costs involved in making the security arrangements.

12.2 The access or identification codes, accounts and certificates provided by or on behalf of ChargeSim to the Customer, Viewer or User are personal and confidential and must be treated as such by the Customer and will only be made known to authorised personnel from the Customer's own organization. The Customer must ensure that the





access or identification codes, accounts and certificates are in no way known or used by third parties. ChargeSim is entitled to change assigned access or identification codes and certificates.

12.3 The Customer must adequately maintain, update and secure its systems and infrastructure and have updated software and updated antivirus software in operation at all times.

12.4 The account created by the Customer, Viewer or a User for the use of Products, Services and/or Websites is strictly personal and may only be used by the one specific Viewer/User for whom the account was created (named individual). An Account cannot be transferred to another individual, unless with express prior written consent, which shall not be unreasonably withheld, of ChargeSim at the sole discretion of ChargeSim.

12.5 The Customer, Viewer or a User may only use it/his/her account and the Products, Services and Websites for its/his/her own use, within the framework of the Agreement and never outside the intended scope or for another location or street address than the one for which the account, Products, Services and/or Websites are supposed to be used according to the Agreement. If and insofar as a Product is linked to an account, that Product can only be used for/by that account.

12.6 It is strictly forbidden to analyze, disassemble or decompile a Product, Service or Website and the (identification) data it contains for the purpose of determining their composition or for reverse engineering or to copy, modify or exploit these data, documentation, or software.

12.7 In the event of violation of the provisions of this article, the Customer forfeits, for the benefit of ChargeSim, without summons or notice of default being required, an immediately payable penalty:

a) for a violation of 12.6 in the amount of EUR 50.000 (fifty thousand euros) per violation, to be increased by EUR 1.000 (one thousand euros) per day or part of a day that the violation continues.

b) for a violation of 12.4 or 12.5 the standard purchase cost of the additional licenses or upgrades which would be required to normally support the additional use.

c) for a violation of other provisions in the amount of EUR 2.000 (two thousand euros) per violation, to be increased by EUR 100 (one hundred euros) per day or part of a day that the violation continues.

The foregoing is without prejudice to the Customer's obligation to compensate ChargeSim for all damage that has occurred or will occur as a result of Customer's actions, if and insofar as this damage exceeds (the sum of) the penalty. ChargeSim remains entitled, at all times, to demand compliance with the Agreement and/or a prohibition of the unlawful acts, if necessary, in summary proceedings. The amount of the penalty is increased by the statutory commercial interest pursuant to Article 6:119a DCC, which is due as of the day on which the penalty becomes due and payable.

### Article 13 Non-disclosure

13.1 The Customer must observe confidentiality regarding the Confidential Information, except insofar as it concerns Confidential Information that is publicly known, other than as a result of an attributable shortcoming or wrongful act on the part of the Customer, or except insofar as it must be disclosed pursuant to an applicable and binding legal provision, ruling or regulation, or until the moment that ChargeSim has given its express prior written consent for the complete or partial removal of the obligation of confidentiality.

13.2 The Customer undertakes vis-à-vis ChargeSim to use the Confidential Information solely for the legitimate purpose for which the Confidential Information was provided or rightfully obtained.

13.3 The Customer undertakes to make the Confidential Information available to third parties and/or employees only if and insofar as this is necessary for the performance of the Agreement and not before the Customer has imposed on those third parties (including Users and Viewers) and/or employees a confidentiality obligation equal to that contained in these TCs.

13.4 Each Quotation and Agreement is strictly confidential. The Customer must not use and/or disclose these, not even for marketing and/or commercial purposes.

13.5 If the Customer is required to disclose certain information by virtue of an obligation under the law, a binding regulation or a binding judicial ruling, it must inform ChargeSim in writing in good time prior to such disclosure and it must cooperate with ChargeSim in order to disclose as little information as is permitted or to take legal action in order to avoid disclosure all together.

13.6 The obligation of confidentiality remains in full force and effect even after Delivery or termination of the Agreement.

13.7 In the event of violation of the provisions of this article, the Customer forfeits, for the benefit of ChargeSim, without summons or notice of default being required, an immediately payable penalty in the amount of EUR 10.000 (ten thousand euros) per violation, to be increased by EUR 500 (five hundred euros) per day or part of a day that the violation continues. The foregoing is without prejudice to the Customer's obligation to compensate ChargeSim for all damage that has occurred or will occur as a result of Customer's actions, if and insofar as this damage exceeds (the sum of) the penalty. ChargeSim remains entitled, at all times, to demand compliance with the Agreement and/or a prohibition of the unlawful acts, if necessary, in summary proceedings. The amount of the penalty is increased



by the statutory commercial interest pursuant to Article 6:119a DCC, which is due as of the day on which the penalty becomes due and payable.

13.8 Subject to the express prior written consent of ChargeSim, it is strictly forbidden for the Customer to enter into contact with third parties involved in the Agreement, that are or were engaged by or on behalf of ChargeSim.

13.9 ChargeSim must observe confidentiality regarding information that relates to the Customer, which is labeled as confidential, was supplied to ChargeSim by the Customer and/or has come to the knowledge of ChargeSim in the context of the preparation, conclusion and/or execution of the Agreement, except insofar as it concerns information that is publicly known, other than as a result of an attributable shortcoming or wrongful act on the part of ChargeSim, or except insofar as it must be disclosed pursuant to an applicable and binding legal provision, ruling or regulation, or until the moment that the Customer has given its express prior written consent for the complete or partial removal of the obligation of confidentiality. This clause is not applicable to smart charging and related algorithms, methods or techniques unless specifically agreed in writing by ChargeSim before disclosure.

### Article 14 Disputes

14.1 All acts performed by ChargeSim, including Agreements, are exclusively governed by Dutch law. The applicability of the Vienna Sales Convention (CISG) and/or other international sales conventions in respect of movable property is expressly excluded.

14.2 All and any disputes ensuing from Agreements, including disputes regarding the existence and/or validity of an agreement, will be exclusively settled by the competent Dutch court in the district of Oost-Brabant.

14.3 If the Customer is domiciled, has an office and/or trades in a country that is not a member of the European Union and/or in the event of a situation that does not fall within the scope of Regulation (EU) No 1215/2012 or its equivalent, without prejudice to the previous paragraph of this article, ChargeSim is entitled to submit a dispute to the Netherlands Arbitration Institute in accordance with the Arbitration Regulations of that institute. The arbitral tribunal shall consist of one arbitrator that shall be appointed in accordance with the listing procedure. The place of arbitration is Eindhoven, the Netherlands and the proceedings will be conducted in English.

14.4 If and as soon as ChargeSim has instituted proceedings with the Netherlands Arbitration Institute, this body has exclusive jurisdiction to settle the dispute in question and the Dutch court in the district of Oost-Brabant no longer has jurisdiction.

14.5 Without prejudice to the provisions of this article, ChargeSim is also entitled to bring an action regarding a cross-border debt collection before another competent Dutch Court.

14.6 ChargeSim reserves the right at all times to access, view, modify or use the information, data and images stored by the Customer, Viewer and/or a User in its/his/her account(s) to the extent necessary: (i) for the proper performance of the Agreement, (ii) the proper functioning of the Products, Services and/or Websites, (iii) by virtue of a request or order from a government authority or applicable laws and regulations, and/or (iv) to check whether the Customer, Viewers and/or Users comply with their obligations and these TCs. The Customer, Viewers and Users grant ChargeSim all necessary permission and cooperation for this purpose. If the Customer, Viewer or a User breaches its/his/her obligations under the Agreement, these TCs or any applicable laws or regulations, ChargeSim has the right to (temporarily or permanently) close the account or deny them access to the Products, Services and/or Websites or to do whatever is necessary to put an end to the breach, without being liable to pay any form of compensation.

14.7 Except as otherwise provided in these TCs or the Agreement, by entering into the Agreement, each party thereto excludes or irrevocably waives its right to invoke articles 6:228 and 6:230 DCC, and its right to rescind (ontbinden) or nullify (vernietigen) said Agreement in whole or in part to the extent such would result in an obligation on the parties to reverse or undue their actions.

14.8 The latest version of these TCs is available through the Website.