CHARGEFOX FLEET SERVICES – TERMS AND CONDITIONS

1. INTRODUCTION

(a) These are the terms and conditions (**Terms**) on which Chargefox Pty Ltd ACN 621 161 215 (**Chargefox**, **we**, **our** or **us**) permits fleet operators and other businesses (**you** or **your**) to:

(i) add your nominated fleet vehicles (**Fleet Vehicles**) to our open platform network of electric-vehicle charging stations which is supported by network infrastructure and services supplied by us (**Chargefox Network**);

(ii) access and use the web portal operated and maintained by us (**Chargefox Network Portal**) and receive related services from us namely:

(A) the provision of physical Radio Frequency Identification Device (**RFID**) cards or tags; and

(B) a help desk facility between 9am to 5pm on business days in Victoria, Australia.

(**Services**).

(b) Your use of the Chargefox Network Portal and/or the Services is also governed by our privacy policy available at https://www.chargefox.com/legal/privacy-policy (**Privacy Policy**), and any other instructions of use we make available to you from time to time (whether notified through the Chargefox Network Portal or otherwise).

(c) These Terms are a binding agreement between you and us. By clicking a button to accept these Terms, using the Chargefox Network Portal, or accessing or using any Services, you confirm that you have read and understood and agree to be bound by these Terms.

If you do not agree to these Terms or our Privacy Policy, then you must not use the Chargefox Network Portal or access or use any Services.

(d) You acknowledge that we may change these Terms from time to time and any updated Terms will apply from the date on which the updated Terms are published. We will publish updates to the Terms to the Chargefox Network Portal, however it is your responsibility to review any updated Terms when they become available. Your continued use of the Chargefox Network Portal or access to or use of any Services after such changes have been made indicates your acceptance of the updated Terms. If you do not agree to any updated Terms, you must notify us in writing and, within a period of 30 days, you must cease using the Chargefox Network Portal or accessing or using any Services. If you continue to use the Services despite providing us notice that you do not agree to the updated Terms, then the continuation of Services will indicate your acceptance of the Terms.

(e) If you have entered into a separate written agreement with us in relation to the addition of the Fleet Vehicles to the Chargefox Network or the provision of Services in relation to the Fleet Vehicles, then the terms of that agreement apply (for as long as that agreement continues) instead of these Terms.

(f) You acknowledge that any person who, in connection with a Fleet Vehicle:

(i) accesses and uses a charging station on the Chargefox Network (**End User**); or

(ii) accesses or uses the Chargefox app available via the Apple App Store and Google Play Store (**Chargefox App**) or the Chargefox website available at https://www.chargefox.com (**Chargefox Website**),

will be bound by the Chargefox Terms and Conditions available at https://www.chargefox.com/legal/terms-conditions and the Privacy Policy available at https://www.chargefox.com/legal/privacy-policy.

2. USER ACCOUNT AND PASSWORD

(a) In order to access and use the Chargefox Network, the Chargefox Network Portal and/or the Services, you must provide us with certain registration details so that we can create an account for you. Registration details that are required can be found at https://chargefox-onboarding.zendesk.com/hc/en-au/requests/new?ticket_form_id=13481211856783.

(b) You must ensure that your registration details are true and accurate at all times, and you agree to update your account information when required or when requested.

(c) When you create your user account, we will provide you with, or you will be asked to create, a password or other secure login details. You must keep such details confidential and must not authorise others to access or use your account. You must immediately notify us by contacting us at fleetsupport@chargefox.com if you become aware of any unauthorised use of your account. You are solely responsible for all activity that occurs on your account.

(d) By creating an account, you warrant to us that:

(i) you are authorised and have full power and capacity to register the Fleet Vehicles on the Chargefox Network; and

(ii) you will provide us with such information, cooperation and assistance that we reasonably request from time to time in order for us to properly perform our obligations under these Terms.

(e) If any RFID card issued by us to you is stolen or damaged you must promptly 'end date' the Services in respect of that RFID card on the Chargefox Network Portal. You remain responsible for all applicable Fees attributed to an RFID card until such time as you remove or 'end date' the RFID card from your account. If you require assistance to do this, please contact us at fleetsupport@chargefox.com and we will assist you with 'end dating' the Services within 30 days of receiving a written request.

3. FLEET VEHICLES

(a) You may add Fleet Vehicles to, and remove them from, the Chargefox Network at any time through the Chargefox Network Portal by following the instructions on the Chargefox Network Portal.

(b) To add a Fleet Vehicle to the Chargefox Network, you must upload the vehicle's make, model and VIN to the Chargefox Network Portal. You are responsible for ensuring that this information is accurate. We will not be liable for any errors or omissions in such information or for any loss or damage suffered or incurred by you or anyone else as a result of any errors or omissions in such information.

(c) A Fleet Vehicle must have an RFID card linked to that Fleet Vehicle before it can be charged using the Chargefox Network.

(d) Fees (as set out in clause 4) will continue to apply in respect of each Fleet Vehicle on the Chargefox Network up to and including the date on which that Fleet Vehicle is removed from the Chargefox Network.

4. FEES AND PAYMENT

(a) In consideration of your access to and use of the Chargefox Network Portal and/or the Services, you agree to pay us:

(i) the Fleet Vehicle Service Fee as set out https://support.chargefox.com/hc/en-au/articles/8950035127055-Site-host-services-and-fees; and

(ii) a usage fee for each charging session, being the kWh rate advertised with respect to each charging station on the Chargefox Network multiplied by the amount of kWh used in a charging session,

(collectively, the **Fees**). In relation to clause 4(a)(ii), a charging session commences from the time a Fleet Vehicle is connected to a charging station on the Chargefox Network (and is started through the Chargefox App or RFID tag or card) and ends when that Fleet Vehicle is disconnected from the charging station.

(b) We will invoice you the Fees in arrears at the end of every calendar month. You must pay invoiced amounts within 30 days of the date of the invoice.

(c) If any invoiced amounts are not received by us by the payment due date, we reserve the right to charge you a late payment fee (being an amount equal to the aggregate amount of interest which accrues on any overdue sum at the default rate fixed from time to time under the *Penalty Interest Rate Act 1983* (Vic), such interest to be calculated on a daily basis from the date after the due date up to and including the date on which payment is made.

(d) The Fleet Vehicle Service Fees may be changed from time to time. Any changes to the Fleet Vehicle Service Fees will be communicated to you in writing 30 days prior to the change effective date.

5. GST

(a) Terms used in this clause 5 have the same meanings given to them in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

(b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provider under or in accordance with these Terms are exclusive of GST.

(c) If GST is imposed on any supply made under or in accordance with these Terms, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on for the taxable supply, subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with these Terms.

(d) If these Terms requires a party to pay for, reimburse or contribute to any expense, loss or outgoing (**reimbursable expense**) suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense plus any GST payable by the other party.

6. REPRESENTATIONS AND WARRANTIES

You represent and warrant that you will:

(a) comply with all laws, and maintain all authorisations, consents and licences required in connection with your Fleet Vehicles and, if applicable, your fleet services; and

(b) have in place with a reputable insurer all insurances as are reasonably required for the commercial use of your Fleet Vehicles and their listing and use on the Chargefox Network Portal.

7. YOUR CONTENT

You are solely responsible for the information or other materials that you upload, transmit, display or submit to the Chargefox Network Portal, or otherwise provide to us in connection with your use of the Services (**Your Content**).

8. CONTENT ON CHARGEFOX NETWORK PORTAL

(a) All content on the Chargefox Network Portal, the Chargefox App, the Chargefox Website and any other information provided or made available by us is for general information purposes only. You acknowledge and agree that while we will attempt to provide accurate information regarding the status of your Fleet Vehicles through the Chargefox Network Portal, such information may change frequently, and in no event will we be responsible for the accuracy, usefulness or completeness of the content on the Chargefox Network Portal.

(b) The Chargefox Network Portal, the Chargefox App and the Chargefox Website may:

(i) contain advertisements or links to third party apps, websites or resources (together **Linked Sites**); and/or

(ii) display, include or make available content, data, information, advice, opinions or materials from third parties (**Third Party Content**),

and you acknowledge and agree that:

(iii) we have no control over and do not accept or assume any responsibility for Linked Sites or the contents, products or services of Linked Sites, and we accept no responsibility for any liability, loss, damage, expense or cost that may arise from your use (or any other person's use) of them;

(iv) we do not guarantee the accuracy, reliability, currency, correctness or completeness of any Third Party Content;

(v) where Third Party Content contains opinions or advice of third parties, we do not purport to endorse the contents of that opinion or advice, or the accuracy or reliability of that opinion or advice; and

(vi) if you decide to access any Linked Sites or rely on any Third Party Content, you do so entirely at your own risk.

(c) We may update or modify any information on the Chargefox Network Portal (or the Chargefox App or the Chargefox Website) at our absolute discretion, for any reason and without notice.

9. ACCESS TO CHARGEFOX NETWORK PORTAL

(a) Sometimes the Chargefox Network Portal and/or the Services may be unavailable while we conduct maintenance, or for technical or other reasons. We will try to keep interruptions to a minimum, but we are not responsible for any delay, loss or other damage you suffer as a result of any error or interruption in accessing or using the Chargefox Network Portal and/or the Services.

(b) There may be some partner charging stations hosted on the Chargefox Network which are unavailable to Fleet Vehicles and / or RFID cards linked to a Fleet Vehicle. For more information, please contact us by email at fleetsupport@chargefox.com.

(c) We do not represent or warrant that:

(i) your use of the Chargefox Network Portal and/or the Services will be continuously available or uninterrupted (including as a result of interference or prevention of access to the Chargefox Network Portal and/or the Services due to the operation or any telecommunications network, computer network and/or the internet);

(ii) the Chargefox Network Portal and/or the Services will be error free, free from viruses or that any defects will be corrected;

(iii) communications via the Chargefox Network Portal, the Chargefox App or the Chargefox Website will be secure;

(iv) the Chargefox Network Portal will be accessible on your equipment and/or systems; or

(v) the Chargefox Network Portal and/or the Services will meet your needs or deliver any particular outcomes.

(d) If you experience any problems with the Chargefox Network Portal and/or the Services, you can contact us by email at fleetsupport@chargefox.com. We will seek to resolve any problems and/or offer assistance as soon as practicable.

(e) We may, from time to time, change or add features or functionality of the Chargefox Network Portal without notice.

(f) You must not:

(i) attempt to gain unauthorised access to the Chargefox Network or the Chargefox Network Portal or their related systems or networks; or

(ii) interfere with or disrupt the integrity of the Chargefox Network, the Chargefox Network Portal, or any third party data contained therein.

10. INTELLECTUAL PROPERTY AND DATA

(a) We (or our licensors) own all intellectual property rights in and to the Chargefox Network, the Chargefox Network Portal, the Chargefox App, the Chargefox Website and the Services, including any enhancements, additions, modifications and variations to any of them (**Chargefox IP**). We grant you a revocable, Australia-wide, royalty free, non-exclusive, non-sublicensable and non-transferable licence to use the Chargefox IP only to the extent required for you to obtain the intended benefit of the Services.

(b) All trade names, trademarks, service marks and other product and service names and logos displayed on the Chargefox Network Portal, the Chargefox App or the Chargefox Website (**Marks**) are proprietary to their respective owners and are protected by applicable trademark and copyright laws.

(c) Unless we agree otherwise in writing, you must not:

(i) create derivative works based on any of the Chargefox IP;

(ii) access, copy, frame or mirror any part of the Chargefox Network Portal or any other part of the Chargefox IP for any purpose not expressly permitted by these Terms, including to build a competitive product or service;

(iii) rent, lease, reverse engineer, decompile or disassemble the Chargefox Network Portal or the Chargefox IP; or

(iv) directly or indirectly register or apply for, or take steps to register or apply for, any Chargefox IP.

(d) You must not use any of our Marks:

(i) in or as part of your own trademarks;

(ii) in connection with activities, products or services which are not ours;

(iii) in a manner which may be confusing, misleading or deceptive; or

(iv) in a manner that disparages any of our products or services (including the Chargefox Network Portal and the Services).

(e) Any questions, feedback, suggestions or other information regarding the Chargefox Network Portal and/or the Services provided by you to us (**Feedback**) are non-confidential and become our sole property. We own all intellectual property rights in any Feedback and will be entitled to use and disseminate the Feedback or any lawful purpose without acknowledgment or compensation to you.

(f) By operating the Chargefox Network, we may collect a range of data including:

(i) details regarding your use of the Chargefox Network Portal;

(ii) data relating to each End User of the Chargefox Network, including their vehicle details and payment information; and

(iii) information regarding charging sessions (including information regarding an End User's RFID tokens),

(the **Chargefox Data**).

(g) You agree that as between us, the Chargefox Data will vest in and be owned by us immediately on creation and may be used by us at our discretion, subject to the terms of the Privacy Policy.

11. CONFIDENTIALITY

(a) In this clause 11, **Confidential Information** means any information that is confidential or sensitive to the disclosing party or the receiving party ought reasonably to know is confidential or sensitive to the disclosing party and, where Chargefox is the disclosing party, includes the Chargefox Data.

(b) Each party

(i) keep all Confidential Information received from the other party confidential;

(ii) not disclose the other party's Confidential Information to any third party; and

(iii) not use the other party's Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under these Terms.

(c) Notwithstanding clause 11(b), a receiving party may disclose the Confidential Information of the other party:

(i) to its representatives and professional advisers on a 'need to know' basis provided those persons first agree to observe the confidentiality of such information;

(ii) if required to do so by law, in which case, the receiving party must, to the extent it is lawfully able to do so, notify the other party prior to disclosure and reasonably consult with the other party as to the form and content of any disclosure;

(iii) with the prior written content of the other party; and

(iv) to its related bodies corporate (as that term is defined in the *Corporations Act 2001* (Cth)).

(d) Clause 11(a) does not apply to information:

(i) which at the time of the disclosure is or later becomes generally available or otherwise public through no fault of the receiving party;

(ii) which was in the possession or knowledge of the receiving party prior to receipt of the same from the other party;

(iii) which the receiving party receives from a third party free from any obligation of confidentiality; or

(iv) which the receiving party has independently developed without use of or reference to the other party's Confidential Information.

12. PRIVACY

(a) Each of us must comply with our respective obligations under the Privacy Act 1988 (Cth) (**Privacy Act**).

(b) We will comply with our Privacy Policy in relation to any personal information (as that term is defined in the Privacy Act) that we collect about you or any End User.

(c) You agree that you are responsible for obtaining all necessary consents prior to disclosing or submitting any personal information to Chargefox.

13. WARRANTIES AND CONSUMER GUARANTEES

(a) To the maximum extent permitted by law, and except as otherwise expressly set out in these Terms, all express or implied guarantees, warranties or representations relating to these Terms or its subject matter are excluded.

(b) If any guarantee, warranty or representation is implied into these Terms and cannot be excluded at law but can be limited, our liability for breach of such guarantee, warranty or representation is limited to (at our option);

(i) supplying the relevant products or services again; or

(ii) the payment of the cost of supplying the relevant product or services again.

(c) To the maximum extent permitted by law, the Chargefox Network Portal and the Services are provided 'as is' and are used at your own risk.

(d) Nothing in these Terms is intended to exclude, restrict or modify any consumer guarantee, right or remedy conferred on you by the Australian Consumer Law (as set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth)) or any other applicable law that cannot be excluded, restricted or modified by agreement.

14. LIABILITY

(a) Neither of us is liable to the other for any indirect or consequential loss, including:

(i) any loss not arising naturally (that is, according to the usual course of things) as a result of a breach of these Terms or other event giving rise to the relevant claim); and

(ii) loss of opportunity, loss of revenue, loss of profit, anticipated profit or anticipated savings, loss of business reputation, business interruptions of any nature and wasted overheads.

(b) Subject to clauses 13, 14(a), 14(c) and 14(d), a party's maximum aggregate liability to the other party (whether under statute, in contract, in tort (including for negligence) or otherwise) for any liability, loss, damages and costs suffered or incurred by the

other party in connection with these Terms (**Loss**) is limited to an amount equal to the Fees paid by you in the 12 month period prior to the relevant Loss arising.

(c) Despite anything else in these Terms, we will not be liable to you for any Loss suffered by you (including any loss of your data) arising as a result of:

(i) electrical outages, power surges, brown-outs, utility load management or any other similar electrical service interruptions whatever the cause;

(ii) interruptions in internet, wireless or mobile services;

(iii) interruptions to the Chargefox Network attributable to unauthorised intrusions; or

(iv) interruptions in services provided by any internet service provider.

(d) Nothing in these Terms operates to limit or exclude the liability of a party:

(i) that cannot be limited or excluded by law;

(ii) for acts or omissions of fraud;

(iii) for personal injury, death, or damage to or loss of real property caused or contributed to by that party; and

(iv) in your case, for any Loss which is covered by an indemnity given under clause 14(e).

(e) You agree to indemnify us from and against any Loss suffered or incurred by us arising from:

(i) your fraudulent acts or omissions (or those of your personnel);

(ii) any failure by you or your personnel to comply with a manufacturer's instructions in respect of any of your Fleet Vehicles or our instructions in relation to use of the Chargefox Network or the Chargefox Network Portal;

(iii) any complaint or claim brought against us by an End User in relation to their use of any of your Fleet Vehicles;

(iv) any defect or fault with any of your Fleet Vehicles;

(v) any breach by you of clause 10(c) or clause 10(d);

(vi) any failure by you or your personnel to comply with applicable laws or regulations; and

(vii) any damage to or interference with the Chargefox Network or the Chargefox Network Portal caused by you,

except to the extent that such Loss was caused or contributed by our act or omission.

15. TERMINATION OR SUSPENSION

(a) If you breach these Terms and:

(i) such breach is not capable of remedy; or

(ii) such breach is capable of remedy but you fail to remedy the breach within 14 days of us notifying you of the requirement to remedy such breach,

we may:

(iii) immediately cease making the Chargefox Network Portal and/or the Services available to you (in whole or in part) and/or

(iv) close, suspend or terminate your account without notice.

(b) We may also close, suspend or terminate your account or the Services if you have failed to pay an amount due to us by the due date.

(c) In the event of termination of your account, clauses 10, 11, 12, 14, 15(c), 15(d), 17 and 18 of these Terms will survive.

(d) Our rights under this clause 15 will not prejudice any other rights or remedies we may have at law.

(e) If you no longer wish to use the Chargefox Network Portal or our Services, then you will need to 'end date' the Services on the Chargefox Network Portal. If you require assistance to do this, please contact us at fleetsupport@chargefox.com and we will assist you with 'end dating' the Services within 30 days of receiving a written request.

(f) We may, in our absolute discretion, suspend access to the Chargefox Network and/or the Chargefox Network Portal if and for so long as we consider suspension necessary for safety reasons or to prevent or abate an emergency situation or hazard.

16. FORCE MAJEURE EVENT

(a) Neither party will be responsible or liable for any failure or delay in the performance of any of their respective obligations under these Terms (other than a payment obligation) arising out of or caused by events or circumstances outside their reasonable control, including, without limitation, strikes, work stoppages, accidents, acts of war, terrorism, civil or military disturbances, natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer services. Each party will use its reasonable endeavours to resume performance of its obligations as soon as practicable in the circumstances.

17. DISPUTE RESOLUTION

(a) If a dispute arises in relation to these Terms, no party shall make any claim or demand or initiate any proceedings until the process set out in this clause 17 has been complied with.

(b) In respect of each dispute, the party wishing to raise the dispute must provide written notice of the dispute to the other party and advise that it is involving the dispute resolution provisions set out in this clause 17.

(c) In the event the party has provided written notice of a dispute to the other party, within 5 days of notice of the dispute being given (or such longer period agreed between the parties), the nominated representatives of both parties must meet in good faith to attempt to resolve the dispute.

(d) If the dispute has not been resolved within 14 days (or such longer period agreed between the parties) then the parties agree to endeavour in good faith to settle the dispute by mediation administered by the Resolution Institute.

(e) The mediation will be conducted in accordance with the Mediation and Conciliation Rules of the Resolution Institute (**Rules**) which set out the procedures to be adopted, the process of selection of the mediator and the costs involved, and the Rules are taken to be incorporated into these Terms.

18. GENERAL

(a) These Terms constitute the entire agreement between you and us with respect to your use of the Chargefox Network Portal and/or the Services.

(b) We may subcontract the provision of any part of the Services to a third party however we will remain responsible for their performance under these Terms.

(c) If any provision of these Terms is held to be unlawful, invalid or unenforceable, that provision is deemed severed, and, to the extent possible, the validity and enforceability of the remaining provisions of these Terms is not affected.

(d) Each indemnity in these Terms is a continuing obligation, separate and independent from the other obligations of the parties and it is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred under these Terms.

(e) You may not assign or transfer any of your rights or obligations under the Terms. We may assign or transfer our rights and obligations under these Terms at any time without restriction and without providing you notice or obtaining your consent. In such circumstances, we may transfer or assign your personal information as provided by you to us, subject to the terms of our Privacy Policy.

(f) Any delay or failure by us to enforce any rights under these Terms does not constitute a waiver.

(g) Neither party will make a press release or other public announcement or disclosure regarding the subject matter of these Terms or refer to the name of the other party without the other party's prior written consent (except as required by law, in which case the party required to make the announcement or disclosure will use commercial reasonable efforts (to the extent permitted by law) to obtain the approval of the other party as to the form, nature and extent of the announcement or disclosure.

(h) Nothing in these Terms creates a relationship of employment, partnership or joint venture between you and us.

(i) These Terms are governed by the laws in force in Victoria, Australia and you submit to the non-exclusive jurisdiction of the courts of Victoria, Australia and any courts which may hear appears from those courts in respect of any proceedings in connection with these Terms.

19. CONTACTING US

If you have any questions about the Chargefox Network, the Chargefox Network Portal, the Services or these Terms, please contact us at fleetsupport@chargefox.com.