



TERMS AND CONDITIONS

ANY PURCHASE OF A PRODUCT BY CUSTOMER OR REGISTRATION WITH ENEL X WAY FOR ANY SOFTWARE, MOBILE APPLICATION OR ANY OTHER PLATFORM OR SERVICE SHALL CONSTITUTE AN ACCEPTANCE BY CUSTOMER OF ALL TERMS AND CONDITIONS HEREIN. ENEL X WAY HEREBY GIVES NOTICE THAT IT OBJECTS TO THE INCLUSION OF ANY DIFFERENT OR ADDITIONAL TERMS PROPOSED BY CUSTOMER. Any and all additional or different terms and conditions contained in any of Customer's purchase orders, acceptance, invoices, bills or other commercial documents are hereby rejected and shall not become part of the Contract between the parties unless signed by both parties.

1. Definitions.

"End Users" means the individual or entity using the Products.

"Enel X Way" means Enel X Way USA, LLC and any parent, affiliates or subsidiaries thereof.

"Contract" means these terms and conditions and any attached purchase order or exhibit authorized by Enel X Way.

"Customer" means the person or company with whom the contract is made.

"Mobile App" means the application made available to Customer by Enel X Way to be used and access through a mobile device.

"Products" means the products made available to Customer by Enel X Way pursuant to an accompanying purchase order or other documentation authorized by Enel X Way.

"Software" means any software to be provided by Enel X Way whether connected to a Product hereunder or another application or platform.

2. Products

(a) Delivery and Deployment. As between Enel X Way and Customer, Customer is solely responsible for the delivery and deployment of the Product for operation by Customer and End Users, including installation, configuration, integration, and testing.

(b) Support. For support-related issues, Customer shall contact the entity from which Customer purchased the Product. If purchased through a reseller (the "Reseller"), the reseller shall be the first contact for issue resolution. Enel X Way maintains a manufactures passthrough warranty. Reseller shall be solely responsible for level one support. Enel X Way maintains level 2 and 3 support-related issues (see 4.B)

(c) Maintenance. Customer is required to accept all patches, bug fixes, updates, maintenance and service packs (collectively, "Fixes") necessary for the proper function and security of the Product and Software, as such Fixes are generally released or pushed by Enel X Way. Enel X Way's **SOLE AND EXCLUSIVE RESPONSIBILITY AND LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY** for the failure of a Product to operate due to a software-related issue or for the Software to operate as intended is for Enel X Way to issue a Fix during Enel X Way's normal release cycle.

3. Payment.

Unless otherwise agreed to by Enel X Way in a subsequent writing, all payment for Products shall be paid by Customer prior to delivery of the Products. Payment for Software Licensing Rights shall be as stated by Enel X Way at the time of access.

4. Hardware Limited Warranty

(a) Hardware Limited Warranty. Enel X Way warrants to Customer that the Products, except for any embedded software (such in-scope Product, the “Hardware”) will, for a period of thirty-six (36) months from the date of delivery (the “Hardware Warranty Period”), materially conform to its published specifications and be free from defects in materials and workmanship under normal use (the “Hardware Limited Warranty”). The Hardware Warranty Period shall be extended by any extension thereof purchased by Customer from Enel X Way. The Hardware Limited Warranty shall be void if the Product has been (i) used in any manner that is inconsistent with the intended purpose or design of the Product as described in Enel X Way’s published documentation; (ii) altered in any way; (iii) maintained in any manner that is inconsistent with Enel X Way’s instructions or warnings included with the Product; or (iv) subjected to any misuse, abuse, neglect, accident, or external forces. The Hardware Limited Warranty does not cover normal wear and tear.

(b) Product Repair or Replacement. If any Hardware does not materially conform to or is defective under the Hardware Limited Warranty during the Hardware Warranty Period (“Nonconforming Hardware”), ENEL X WAY’S SOLE AND EXCLUSIVE RESPONSIBILITY AND LIABILITY AND CUSTOMER’S EXCLUSIVE REMEDY will be for Enel X Way (at Enel X Way’s option), to repair or replace the Nonconforming Hardware, by (i) dispatching repair personnel to repair Nonconforming Hardware at its installed location, (ii) sending a software update or other fix, or (iii) sending a replacement part to Customer with installation instructions or an offer of remote assistance for replacement (collectively (i), (ii) and (iii) a “Correction”); provided that Enel X Way’s obligation to issue a correction is subject to the following: (i) the Hardware Limited Warranty is not void as set forth in Section 4(a) above; (ii) Customer provides written notice of a covered, reproducible defect promptly upon discovery thereof; (iii) Customer contacts Enel X Way to obtain an RMA number and returns all applicable Products with Nonconforming Hardware to Enel X Way in accordance with its RMA process as applicable; (iv) Customer has paid in full all amounts payable for the Product; (v) Customer grants any repair personnel access to Nonconforming Hardware; (vi) the Nonconforming Hardware is connected to the internet and able to receive software updates (unless the inability to connect to the internet is due to a failure of the Product to comply with the Hardware Limited Warranty); and (vii) Customer is familiar with Product and willing and able to follow directions to repair Product if and when requested by Enel X Way. A replacement Product or part assumes the remaining warranty of the original Product, or 30 days from the date of replacement or repair, whichever is longer. Customer agrees to ship the Nonconforming Hardware to Enel X Way upon request (e.g., for Enel X Way to provide repair or if Enel X Way ships a replacement product and requests return of the original product). If Enel X Way requests for Customer to ship the Nonconforming Hardware to Enel X Way, all freight, insurance, and other shipping expenses, as well as any special packing expense, shall be paid initially by Customer but shall be reimbursed by Enel X Way if the Hardware is shown to have been defective in breach of the Hardware Limited Warranty

(c) Disclaimers. EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN THIS SECTION 4 AND TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, THE PRODUCT, INCLUDING THE EMBEDDED SOFTWARE, AND ANY SOFTWARE, AND ANY RELATED SERVICES PROVIDED BY ENEL X WAY ARE PROVIDED ON AN AS-IS BASIS. ENEL X WAY AND ITS SUPPLIERS HEREBY EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, ORAL, STATUTORY OR OTHERWISE, REGARDING ANY SUBJECT MATTER OF THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, ENEL X WAY AND ITS SUPPLIERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, NONINFRINGEMENT, ANY WARRANTY ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. FURTHER, ENEL X WAY AND ITS SUPPLIERS DO NOT WARRANT, GUARANTEE OR MAKE ANY REPRESENTATIONS THAT THE PRODUCT WILL OPERATE UNINTERRUPTED OR ERROR-FREE, IN COMBINATION WITH ANY MATERIAL OR PRODUCTS NOT PROVIDED BY ENEL X WAY, WILL BE FREE FROM BUGS, OR THAT ANY ERRORS WILL BE OR CAN BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ANY PERSONNEL OR RESELLERS OF ENEL X WAY SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTY CONTAINED IN THIS SECTION 4.

5. Intellectual Property Rights and License

- (a) License; Access. Subject to Customer's compliance with this Agreement and during the term of this Agreement, Enel X Way hereby grants to Customer a non-exclusive, non-transferable (except in connection with a permitted assignment of this Agreement or the sale of the applicable Product to a subsequent owner) right to access the Software for Customer's personal use as authorized by Enel X Way. Customer hereby agrees to keep the contact information provided to Enel X Way current. Customer will keep its login information to any Enel X Way Software confidential and is responsible for any activity occurring under its account. Access to and use of password protected and/or secure areas is restricted to authorized users only. Unauthorized individuals attempting to access these areas may be subject to prosecution.
- (b) Embedded Software. Subject to Customer's compliance with this Agreement, Enel X Way hereby grants to Customer a non-exclusive, non-transferable (except in connection with a permitted assignment of this Agreement or the sale of the applicable Product to a subsequent owner), non-sublicensable, perpetual license to use the embedded software solely as embedded in the applicable Product and solely to the extent necessary for the normal and intended use of such Product. This license is granted in addition to the license specified in clause (a) above.
- (c) Reservation of Rights. None of Enel X Way's rights in or to any software will be deemed to have been assigned or otherwise transferred to Customer, notwithstanding the fact that Product has been sold or otherwise transferred to Customer. As between Enel X Way and Customer, Enel X Way owns all right, title and interest in and to all intellectual property and other proprietary rights to the Hardware, software and any other technology or materials embedded in, incorporated into or provided with the Product and any accompanying documentation or information relating to or derived from the foregoing.
- (d) Restrictions. Customer shall prevent unauthorized access to and use of the software and any documentation by third parties. Customer shall not, and shall not allow any third party to (i) copy, decompile, disassemble, reverse engineer the software, or otherwise derive the source code of the software, or attempt to do so, except to the extent required by applicable law; (ii) disclose, distribute, sell, sublicense, display, publish, modify, adapt, alter, translate, or create derivative works of the software; (iii) remove, cover or alter any of Enel X Way's patent, copyright or trademark notices placed upon, embedded in or displayed by the Products or software or their packaging and related materials; (iv) do anything to interfere with any "call home" functionality of the Product or its interactions with the software; or (v) otherwise use the software for any purpose not expressly permitted by this Agreement.
- (e) Accuracy & Completeness. Enel X Way may modify its website and mobile apps in any way and at any time, with or without notice. In no event will Enel X Way be responsible for the accuracy, usefulness or completeness of any information, materials or other content on its website or mobile apps. Enel X Way may change the programs or products mentioned at any time without notice.
- (f) Analysis of Usage Data. Customer agrees that its Enel X Way website and mobile apps usage may be used by Enel X Way to analyze averages, trends, and other anonymized patterns of usage. Enel X Way will use reasonable and commercially-justifiable measures to ensure personal information remains confidential, protected and secure.
- (g) Product Data. As between Enel X Way and Customer, Enel X Way owns all data that is generated, collected, or otherwise provided to Enel X Way in connection with the use of the Product or software ("Data"). Customer hereby assigns any and all rights that Customer may have in the Data necessary to accomplish such ownership. Any public disclosure of Data by Enel X Way will be done in such a way that Customer cannot be reasonably identified. Subject to the terms of this Agreement, Enel X Way hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable (except in connection with a permitted assignment of this Agreement or the sale of the applicable Product to a subsequent owner), perpetual license to use the Data that Enel X Way makes available to Customer through the normal interface of the Product or software solely for Customer's internal business purposes or any purpose agreed between Customer and Enel X Way in a written agreement. Customer agrees not to disclose such Data to any third party (i) unless Enel X Way's agreement thereto is set forth in a written agreement between the Parties or (ii) without the prior written consent of Enel X Way.
- (h) Data Reporting: Notwithstanding the foregoing, Customer solely designates Enel X Way as the data reporting entity, also known as fuel reporting entity, for purposes of the State of California's, Oregon and Washington as well as British Columbia or Canada's Low Carbon Fuel Standard Program ("LCFS"), or functionally

equivalent programs, associated with the Product(s). Such data may consist of Customer and Product identification numbers, Product locations and aggregated charging volumes per Product (whereas session specific data may be requested in the case of an audit). The Customer may have rights to act as its own data reporting entity; therefore, if Customer intends to act as its own data reporting entity, then it shall notify Enel X Way in writing by email, to info@evcharging.enelx.com Attention: Low Carbon Fuel Reporting Notice, within ten (10) days of initial use of the Product. Customer represents and warrants to Enel X Way that, in the absence of providing written notice, Customer will not act as the data reporting entity.

6. Confidential Information.

Customer may be exposed to certain confidential or proprietary information of Enel X Way. Customer agrees not to use or disclose such information without the prior written consent of Enel X Way, either during or after the Term. Customer agrees not to decompile, deconstruct or reverse engineer any information provided by Enel X Way to Customer.

7. Limitation of Liability

ENEL X WAY'S AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT (INCLUDING ANY WARRANTY EXTENDED IN CONNECTION THEREWITH) SHALL BE LIMITED TO THE AMOUNT PAID TO ENEL X WAY FOR THE APPLICABLE PRODUCT GIVING RISE TO THE CLAIM. IN NO EVENT SHALL ENEL X WAY BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY ANYONE. IN NO EVENT SHALL ENEL X WAY BE LIABLE TO CUSTOMER OR ANY OTHER PERSON OR ENTITY FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, INDIRECT OR OTHER NON-DIRECT DAMAGES (AND, DAMAGE TO OR LOSS OF USE OF ANY PRODUCT, LOST SALES OR PROFITS, OR DAMAGES OR LOSSES DUE TO A DELAY OR FAILURE TO PERFORM ANY WARRANTY OBLIGATION UNDER THIS AGREEMENT OR ARISING OUT OF OR IN CONNECTION WITH THE USE OF, INABILITY TO USE, OR THE REPAIR OR REPLACEMENT OF ANY PRODUCT), HOWEVER CAUSED, ON ANY THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, BREACH OF CONTRACT OR OTHERWISE) AND WHETHER OR NOT ENEL X WAY HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED OR EXCLUSIVE REMEDY.

8. Termination.

Enel X Way may immediately terminate this Agreement if Customer (i) fails to make any payments due and payable for the Product or Software; or (ii) materially breaches this Agreement and does not cure such breach within fifteen (15) days from receipt of written notice of such breach from Enel X Way. If this Agreement is terminated, without limiting any other rights which are terminated, Enel X Way may (w) discontinue Customer's access to any Software, (x) stop providing any support to Customer; (y) cease issuing updates to Customer; and (z) disconnect the Product from its platforms and services. All licenses granted to Customer and Customer's right to access any software or platforms shall terminate if this Agreement is terminated. Enel X Way may cease providing access to Software if Enel X Way ceases making such Software generally available. Customer shall pay Enel X Way for the Services performed and Products ordered up through the date of termination plus any reasonable termination or cancellation fees assessed by Enel X Way.

9. Independent Contractor.

It is understood and agreed that each of the Parties hereto is an independent contractor and that neither Party is, nor shall be considered to be, an agent, distributor or representative of the other. Neither Party shall act or represent itself, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

10. Ethics and Anticorruption.

Enel X Way declares that in managing its business activities and its relationships, it adheres to the principles contained in its Code of Ethics, the Zero Tolerance of Corruption Plan and the Organisation & Management Model adopted pursuant to Italian Legislative Decree 231/2001 (available at <https://www.enel.com/investors/a/2016/08/code-of-ethics>). Moreover, as a subsidiary of Enel S.p.A., Enel X Way declares its adherence to the United Nations Global Compact. Enel X Way wishes its counterparties to refer to the same principles in managing their business activities and relationships. Enel X Way prohibits any promises, offers, or requests of illegal payments, in cash or other benefits, with the objective of gaining an advantage in its relationships with stakeholders, and this prohibition is extended to all of its employees.

11. Assignment and Subcontracting.

Customer shall not assign its rights or obligations hereunder without Enel X Way's advance written consent. Enel X Way shall be able to assign this Agreement to any affiliate of Enel X Way or by operation of law at any time during the term of this Agreement.

12. Publicity.

In connection with the Agreement, Customer hereby consents to Enel X Way's use of Customer's name and logo in Enel X Way's promotional materials, including, but not limited to, website, presentations and other printed materials. Enel X Way acknowledges that Customer is the owner of all right, title and interest in and to Customer's name and logo and shall not take any action that is inconsistent with such ownership

13. Privacy Laws.

The Parties shall comply at all times with the requirements of applicable data privacy laws, including, but not limited to, Regulation (EU) 2016/679 known as the General Data Protection Regulation and the California Consumer Privacy Act, each as may be amended from time to time. The Privacy Notice Standard available at <https://evcharging.enelx.com/privacy-policy#personal> shall form part of the Agreement and is hereby incorporated by reference.

14. Compliance; Export Controls.

Customer at all times shall comply with all applicable federal, state, local, and foreign laws and regulations. Without limiting the foregoing, Customer agrees to comply with all applicable export control laws and regulations related to its use of the Products.

15. Force Majeure

In no event shall Enel X Way be in default or otherwise liable for any delay in or failure of its performance of any of its obligations under this Agreement if caused directly or indirectly by circumstances beyond Enel X Way's control, including without limitation acts of God, fire, flood, pandemic, strike or lockout or other labor dispute, or shortage of or inability to obtain material or equipment or energy services, accident, civil commotion, riot, war, governmental regulation or order.

16. General Terms.

If any provision of this Agreement is declared or found to be illegal, unenforceable or void, then such provision shall be null and void but each other provision hereof not so affected shall be enforced to the full extent permitted by applicable law. No waiver of any right or remedy hereunder with respect to any occurrence or event on one occasion shall be deemed a waiver of such right or remedy with respect to such occurrence or event on any other occasion. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to its choice of law rules. Any modification or amendment of any provision of this Agreement must be in writing and bear the signature of the duly authorized representatives of both Parties. This Agreement sets forth the entire agreement and understandings between the Parties hereto with respect to the subject matter hereof. The captions and headings throughout this Agreement are for convenience and reference only,

and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify, or add to the interpretation, construction, or meaning of any provision of or the scope or intent of this Agreement, nor in any way affect the Agreement. This Agreement may be executed in multiple counterparts, all of which taken together will constitute one single Agreement between the parties hereto.

ADDENDUM TO TERMS AND CONDITIONS

This Addendum relates to the purchase order (the “PO”) or quote and sets forth the terms and conditions under which Enel X Way USA, LLC, or its affiliate (“Enel X Way”), will provide or sell the electric vehicle charging equipment set forth in the Purchase Order (the “Products”) or quote to the referenced customer (“Customer”).

1. Acceptance of Purchase Orders. The PO and this Addendum, upon signature by customer (“Customer”), constitutes a binding purchase order for the purchase of the Products and services specified in the Purchase Order, on the terms and/or conditions specified herein.
2. Non-Cancellable. The purchase described in the PO is non-cancellable and is subject to the terms and conditions of the agreement, if any, between customer/purchaser and Enel X Way (such agreement, the “Agreement”).
3. Terms and Conditions of Purchase. The terms of this Addendum and the Agreement supersede and replace any conflicting terms or conditions that may be set forth in any purchase order or other purchase-related document issued by the Customer, notwithstanding the acceptance of such purchase order or other document as part of a purchase-acceptance process by Enel X Way.