

# Plug Power Website Terms of Use

Last Modified: July 10, 2023

## Acceptance of the Terms of Use

These terms of use are entered into by and between You and Plug Power, Inc. ("**Company**," "**we**," or "**us**"). The following terms and conditions ("**Terms of Use**") govern your access to and use of plugpower.com including any text, data, information, software, graphics, videos, audio, photographs and other materials (collectively referred to as "Materials"), functionality, and services offered on or through plugpower.com (the "**Website**").

Please read the Terms of Use carefully before you start to use the Website. **By using the Website, you accept and agree to be bound and abide by these Terms of Use.** If you do not want to agree to these Terms of Use or the Privacy Policy, you must not access or use the Website.

This Website is offered and available to users who are 18 years of age or older. By using this Website, you represent and warrant that you are of legal age to form a binding contract with the Company and meet all of the foregoing eligibility requirements. If you do not meet all of these requirements, you must not access or use the Website.

## Changes to the Terms of Use

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when we post them, and apply to all access to and use of the Website thereafter.

Your continued use of the Website following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page from time to time so you are aware of any changes, as they are binding on you.

## Accessing the Website and Account Security

We reserve the right to withdraw or amend this Website, and any service, functionality or Material we provide on the Website, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Website, or the entire Website.

You are responsible for both:

- Making all arrangements necessary for you to have access to the Website.
- Ensuring that all persons who access the Website through your internet connection are aware of these Terms of Use and comply with them.

## Intellectual Property Rights

The Website and its entire contents, features, and functionality (including but not limited to all Materials, and the design, selection, and arrangement thereof) are owned by the Company, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use the Website for your personal, non-commercial use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on our Website, except as follows:

- Your computer may temporarily store copies of Materials in RAM incidental to your accessing and viewing those Materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.
- You may print or download one copy of a reasonable number of pages of the Website for your own personal, non-commercial use and not for further reproduction, publication, or distribution.
- If we provide desktop, mobile, or other applications for download, you may download a single copy to your computer or mobile device solely for your own personal, non-commercial use, provided you agree to be bound by our end user license agreement for such applications.

If you print, copy, modify, download, or otherwise use or provide any other person with access to any Materials or any part of the Website in breach of the Terms of Use, your right to use the Website will stop immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title, or interest in or to the Website or any content on the Website is transferred to you, and all rights not expressly granted are reserved by the Company. Any use of the Website not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark, and other laws.

### **Trademarks**

The Company name, and all trademarks, service marks, and logos of the Company, and all related names, logos, product and service names, designs, and slogans are trademarks of the Company or its affiliates or licensors. You must not use such marks without the prior written permission of the Company. All other names, logos, product and service names, designs, and slogans on this Website are the trademarks of their respective owners.

### **Intellectual Property Infringement**

We respect the intellectual property rights of others and encourage you to do the same. Accordingly, we have a policy of removing User Submission, as defined below, that violates intellectual property rights of others, suspending access to the Website (or any portion thereof) to any user who uses the Website in violation of someone's intellectual property rights, and/or terminating in appropriate circumstances the account of any user who uses the Website in violation of someone's intellectual property rights.

Pursuant to Title 17 of the United States Code, Section 512, we have implemented procedures for receiving written notification of claimed copyright infringement and for processing such claims in accordance with such law. If you believe your copyright or other intellectual property right is being infringed by a user of the Website, please provide written notice to our agent for notice of claims of infringement:

Office of the General Counsel

Plug Power Inc.  
968 Albany Shaker Rd.  
Latham, NY 12110  
Legal@PlugPower.com

To be sure the matter is handled immediately, your written notice must:

- Contain your physical or electronic signature;
- Identify the copyrighted work or other intellectual property alleged to have been infringed;
- Identify the allegedly infringing material in a sufficiently precise manner to allow us to locate that material;
- Contain adequate information by which we can contact you (including postal address, telephone number, and e-mail address);
- Contain a statement that you have a good faith belief that use of the copyrighted material or other intellectual property is not authorized by the owner, the owner's agent or the law;
- Contain a statement that the information in the written notice is accurate; and
- Contain statement, under penalty of perjury, that you are authorized to act on behalf of the copyright or other intellectual property right owner.

Unless the notice pertains to copyright or other intellectual property infringement, the agent will be unable to address the listed concern.

#### Submitting a Digital Millennium Copyright Act (“DMCA”) Counter-Notification

We will notify you that we have removed or disabled access to copyright-protected material that you provided, if such removal is pursuant to a validly received DMCA take-down notice. In response, you may provide our agent with a written counter-notification that includes the following information:

1. Your physical or electronic signature;
2. Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;
3. A statement from you under the penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
4. Your name, physical address and telephone number, and a statement that you consent to the jurisdiction of a court for the judicial district in which your physical address is located, or

if your physical address is outside of the United States, for any judicial district in which we may be located, and that you will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.

### Termination of Repeat Infringers

We reserve the right, in our sole discretion, to terminate the account or access of any user of the Website who is the subject of repeated DMCA or other infringement notifications.

### User Submissions

Certain areas of the Website may permit you to upload or submit information, images, video, data, text, messages, or other materials (each, a “**User Submission**”). You agree that you are solely responsible for all of your User Submissions and that any such User Submission is considered both non-confidential and non-proprietary. Further, we do not guarantee that you will be able to edit or delete any User Submission you have submitted.

By submitting any User Submission, you are promising us that:

- You own all rights in your User Submission (including, without limitation, all rights to the reproduction and display of your User Submission) or, alternatively, you have acquired all necessary rights in your User Submission to enable you to grant to us the rights in your User Submission as described in these Terms;
- You have paid and will pay in full all license fees, clearance fees, and other financial obligations, of any kind, arising from any use or commercial exploitation of your User Submission;
- Your User Submission do not infringe the copyright, trademark, patent, trade secret, or other intellectual property rights, privacy rights, or any other legal or moral rights of any third party;
- You voluntarily agree to waive all “moral rights” that you may have in your User Submission;
- Any information contained in your User Submission is not known by you to be false, inaccurate, or misleading;
- Your User Submission does not violate any law (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination, or false advertising);
- Your User Submission is not, and may not reasonably be considered to be, defamatory, libelous, hateful, racially, ethnically, religiously, or otherwise biased or offensive, unlawfully threatening, or unlawfully harassing to any individual, partnership, or corporation, vulgar, pornographic, obscene, or invasive of another’s privacy;

- You were not and will not be compensated or granted any consideration by any third party for submitting your User Submission;
- Your User Submission does not incorporate materials from a third-party website, or addresses, email addresses, contact information, or phone numbers (other than your own);
- Your User Submission does not contain any viruses, worms, spyware, adware, or other potentially damaging programs or files;
- Your User Submission does not contain any information that you consider confidential, proprietary, or personal; and
- Your User Submission does not contain or constitute any unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of solicitation.

By submitting a User Submission, you grant to us an irrevocable, perpetual, transferable, non-exclusive, fully-paid, worldwide, royalty-free license (sublicensable through multiple tiers) to:

- Use, distribute, reproduce, modify, adapt, publish, translate, publicly perform, and publicly display your User Submissions (or any modification thereto), in whole or in part, in any format or medium now known or later developed;
- Use (and permit others to use) your User Submission in any manner and for any purpose (including, without limitation, commercial purposes) that we deem appropriate in our sole discretion (including, without limitation, to incorporate your User Submission or any modification thereto, in whole or in part, into any technology, product, or service);
- Display advertisements in connection with your User Submissions and to use your User Submissions for advertising and promotional purposes.

We may, but are not obligated to, pre-screen User Submissions or monitor any area of the Website through which User Submissions may be submitted. We are not required to host, display, or distribute any User Submissions on or through the Website and may remove at any time or refuse any User Submissions for any reason. We are not responsible for any loss, theft, or damage of any kind to any User Submissions. Further, you agree that we may freely disclose your User Submission to any third party absent any obligation of confidence on the part of the recipient.

### **Prohibited Uses**

You may use the Website only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Website:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).

- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To transmit, or procure the sending of, any advertising or promotional material, including any "junk mail," "chain letter," "spam," or any other similar solicitation.
- To impersonate or attempt to impersonate the Company, a Company employee, another user, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Website, or which, as determined by us, may harm the Company or users of the Website, or expose them to liability.

Additionally, you agree not to:

- Use the Website in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Website, including their ability to engage in real time activities through the Website.
- Use any robot, spider, or other automatic device, process, or means to access the Website for any purpose, including monitoring or copying any of the material on the Website.
- Use any manual process to monitor or copy any of the material on the Website, or for any other purpose not expressly authorized in these Terms of Use, without our prior written consent.
- Use any device, software, or routine that interferes with the proper working of the Website.
- Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Website, the server on which the Website is stored, or any server, computer, or database connected to the Website.
- Attack the Website via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Website.

### **Reliance on Information Posted**

The information presented on or through the Website is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Website, or by anyone who may be informed of any of its contents.

### **Changes to the Website**

We may update the content and Materials on this Website from time to time, but such content and Materials are not necessarily complete or up-to-date. Any of the material on the Website may be out of date at any given time, and we are under no obligation to update such material.

### **Information About You and Your Visits to the Website**

All information we collect on this Website is subject to our Privacy Policy

[[https://www.plugpower.com/wp-content/uploads/2023/08/Plug\\_PrivacyPolicy\\_Final0823.pdf](https://www.plugpower.com/wp-content/uploads/2023/08/Plug_PrivacyPolicy_Final0823.pdf)].

### **Links from the Website**

If the Website contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to this Website, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

### **Disclaimer of Warranties**

You understand that we cannot and do not guarantee or warrant that the Website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

YOUR USE OF THE WEBSITE, THE MATERIALS, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE IS AT YOUR OWN RISK. THE WEBSITE, THE MATERIALS, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ANY PERSON ASSOCIATED WITH THE COMPANY MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE WEBSITE. WITHOUT LIMITING THE FOREGOING, NEITHER THE COMPANY NOR ANYONE ASSOCIATED WITH THE COMPANY REPRESENTS OR WARRANTS THAT THE WEBSITE, THE MATERIALS, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**Limitation on Liability**

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL THE COMPANY, ITS AFFILIATES, OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**Indemnification**

You agree to defend, indemnify, and hold harmless the Company, its affiliates, licensors, and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the Website, including, but not limited to, your UserSubmissions, any use of the Website's content, services, and products other than as expressly authorized in these Terms of Use, or your use of any information obtained from the Website.

**Governing Law and Jurisdiction**

All matters relating to the Website and these Terms of Use, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction).

Any legal suit, action, or proceeding arising out of, or related to, these Terms of Use or the Website shall be instituted exclusively in the federal courts of the United States or the courts of the State of New York. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

**Waiver and Severability**

No waiver by the Company of any term or condition set out in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of the Company to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.



If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

**Entire Agreement**

The Terms of Use constitute the sole and entire agreement between you and Plug Power regarding the Website and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding the Website.

**Your Comments and Concerns**

This website is operated by Plug Power, Inc. located at 968 Albany Shaker Road Latham, NY 12110.

All feedback, comments, requests for technical support, and other communications relating to the Website should be directed to: [marketingdept@plugpower.com](mailto:marketingdept@plugpower.com)