

GENERAL CONDITIONS AMBER (B2B)



DEFINITIONS

For the purpose of these General Conditions and all related documents, the capitalized terms as defined below in alphabetical order shall have the following meanings whereby these terms may be used in the singular or the plural form and vice versa, as the context so requires:

"Agreement" the agreement concerning the sale and execution of the Services concluded in Writing between the Parties of which these General Conditions form an integral part, including all appendices, subsequent amendments hereof and/or addenda hereto as may be agreed upon in writing between the Parties.

"Amber" P33 Development B.V., a private company with limited liability duly incorporated and validly existing under the laws of the Netherlands, with registered seat and its offices at (5656 AE) Eindhoven, High Tech Campus 1, the Netherlands, registered with the Chamber of Commerce under number 65625242, VAT number NL856191899B01, and any of its directors, employees, affiliated companies and other persons involved in its business.

"Analyses" the analysis of the mobility of Users performed by or on behalf of Amber, as agreed in the Agreement.

"Customer" any legal entity with whom Amber concludes an Agreement, or the legal entity with whom Amber is negotiating with the purpose of concluding an Agreement.

"Confidential Information" the Agreement, its terms and execution, as well as all information and know-how (including but not limited to documents, specifications, drawings, letters, e-mails, brochures, business plans, computer programs, datasets, communications as well as any other material) furnished by a Party to the other in any form whatsoever or otherwise coming to a Party's knowledge in connection with the performance of the Agreement and all data derived directly or indirectly from such information.

"General Conditions" these general terms and conditions of sale and execution of the Services of Amber, available at www.ambermobility.com/legal.

"Service" the service provided by Amber to Customer as described in the Agreement, by which Users are offered an on-demand mobility through the provision of, inter alia, the Platform and the Vehicles and whereby Customer is offered the opportunity to gain insight regarding the mobility of Users through the performance of Analyses .

"Terms of Use" the terms under which the User may use the Service.

"Party" or **"Parties"** Customer or Amber individually or Customer and Amber together.

"Platform" the platform that is accessible via Amber's mobile application or current and future Amber websites and underlying pages, and which allows Users to make use of the Service.

"Reservation" the period in which the User leases the Vehicle. This period starts and ends according to the time registration via the Platform.

"Vehicle" means an (electric) car or other (electric) powered passenger vehicle used in connection with the Service.

"User" means any natural person designated by the Customer to use the Service in accordance with the Agreement.

"Written" by post, by fax, by e-mail or other electronic communications equipment commonly used in the market.





GENERAL

Article 1 | Applicability of the General Conditions

- (1) These General Conditions apply to all offers of Amber and Agreements.
- (2) Unless otherwise agreed in Writing, the applicability of Customer's general purchase or other conditions, or any applicable legal relationship between Customer and a third party, is expressly rejected.
- (3) If 1 (one) or more provisions of these General Conditions shall be found, by a court with jurisdiction, to be illegal, invalid or unenforceable, it shall not affect the legality, validity or enforceability of any of the remaining provisions of these General Conditions. The Parties agree to attempt to substitute for any illegal, invalid or unenforceable provision a legal, valid or enforceable provision that achieves to the greatest extent possible the objectives of the illegal, invalid or unenforceable provision.
- (4) In the event of any contradiction between the terms of these General Conditions, the Terms of Use and the Agreement (excluding the General Conditions and Terms of Use), the following priority will be observed in descending order: 1. Agreement (excluding General Conditions and Terms of Use), 2. General Conditions, and 3. Terms of Use.
- (5) These General Terms are drafted in English and Dutch. If there is a discrepancy between an English language word and a Dutch language word used to clarify the same and then to the extent of the conflict only, the meaning of the Dutch language word shall prevail. Where indicated in italics, Dutch equivalents of these English terms have been given. Terms and expressions of law and of legal concepts as used in this General Conditions have the meaning attributed to them under the laws of the Netherlands and General Conditions should be read and interpreted accordingly.

CONCLUSION, DURATION, SUSPENSION AND TERMINATION OF THE AGREEMENT

Article 2 | Conclusion of the Agreement

- (1) All quotations or offers of Amber are non-binding and apply for a period of 14 (fourteen) days, unless otherwise agreed in Writing. When Customer accepts a quotation or offer, Amber has the right to redeem it for 2 (two) days after receipt of the acceptance.
- (2) The Agreement is concluded after Customer has accepted Amber's offer in writing. By way of derogation from the provisions of Article 6:225 (2) of the Dutch Civil Code, Amber is not bound to any abnormalities in the acceptance of Amber's offer, unless otherwise agreed in Writing.
- (3) Deviation from the General Conditions by Customer is valid only if agreed upon by the Parties in Writing.

Article 3 | Duration, suspension, termination of the Agreement

- (1) The Agreement is entered into for the duration as set out in the Agreement.
- (2) Unless agreed upon in Writing, the Agreement may be terminated by a Party by termination in accordance with a notice period of 1 (one) month without the liability of the terminating Party to the other Party. However, the Contractor can only terminate the Agreement after the expiry of a period of 3 (three) months from the starting date of the Agreement.
- (3) Amber shall at all times be entitled to suspend the fulfillment of its obligations under the Agreement in the event that: **(i)** the Customer does not timely and fully fulfill its obligations under the Agreement; and/or **(ii)** Amber learns of circumstances giving good ground to fear that the Customer will not timely and fully fulfill its



obligations under the Agreement. In such event suspension of the Agreement by Amber shall only be allowed in so far the shortcoming justifies such action.

- (4) Furthermore, Amber shall at all times be entitled to terminate the Agreement with immediate effect, in the event that: **(a)** if circumstances arise of such nature that fulfilment of the Amber's obligations becomes can no longer be expected in accordance with the requirements of reasonableness and fairness (for example, but not limited to: in case of a high percentage level of damage to the Vehicles) **(b)** bankruptcy or an application of bankruptcy has been made; **(c)** the request of (preliminary) suspense of payment by Customer; **(d)** Costumer is affected by an enforcement order which has a material influence on the Agreement; **(e)** Contractor in any way loses the power or capacity to act with respect to any (part) of its assets.
- (5) If the Agreement is dissolved pursuant to **article 3.4** above, Amber's claims against Contractor shall be forthwith due and payable. If Amber suspends fulfilment of its obligations, it shall retain its rights under the applicable law and the Agreement.
- (6) Termination or cancellation of this Agreement for any reason shall not affect any obligation which from the context thereof is intended to survive the termination or cancellation of this Agreement (such as, but not limited to: confidentiality, limitation of liability and privacy).
- (7) Termination of the Agreement must be made by the end of a monthly billing period and by a registered letter. In determination of the date of termination the legal theory of reception (in Dutch '*ontvangsttheorie*') is applied.

OBLIGATIONS OF AMBER

Article 4 | General

- (1) Amber will make every effort to comply with its obligations under the Agreement.

Article 5 | Provision of the Platform and Vehicles, maintenance and replacement vehicle

- (1) In relation to the Service, Amber will make available to the Contractor the Platform and various Vehicles in the manner and within the scope as set out in the Agreement. The number of Vehicles available may be modified by Amber at any time, provided that this does not affect the mobility of Users. The ownership of the Vehicles does not transfer to Contractor or User in any way whatsoever.
- (2) Costs of maintenance, repair and replacement of parts and tires, which are connected to the correct use of the Vehicles, shall be borne by Amber.
- (3) Amber offers in the Netherlands a replacement vehicle to Users of Vehicles which can no longer be used as a result of a break down, accident or theft. Amber will make every effort to provide the User with an equivalent vehicle (to the extent possible) as quickly as possible. However, Amber cannot guarantee that the replacement vehicle is an electric vehicle.

Article 6 | Analyses

- (1) If so agreed, Amber is responsible for performing Analyses in accordance with the terms of the Agreement.

OBLIGATIONS OF CUSTOMER

Article 7 | Prices and payment terms

- (1) The price or prices stated in the offer are based on the cost-determining factors applicable at the time of the offer. However, if there are cost-increasing factors between the date of the conclusion of the Agreement and its implementation, Amber is entitled to increase the prices accordingly. Customer will be informed timely of any price increase. If the Customer cannot agree with the price increase, it is free to terminate the Agreement in accordance with **article 3.2**, without any right to compensation.
- (2) Billing and payment are made in accordance with the terms of the Agreement.
- (3) Customer shall pay Amber's invoices in full without discount, withholding, set-off or retention or counterclaim. Contestation of an invoice by the Customer shall not suspend the fulfillment of its payment obligations.
- (4) Unless explicitly stated otherwise, prices are in euro and exclusive VAT.



- (5) The data regarding Reservations that are registered via the Platform are leading and will be used for the preparation of the invoice.
- (6) In the event that the Customer fails to timely fulfill its payment obligations, then the Customer shall be in default by operation of law and owe an interest charge equal to the statutory interest rate. All judicial and extrajudicial costs related to the enforcement and collection of payments due by Customer and not received in time (such as, but not limited to: litigation cost and cost for legal assistance) shall be borne by the Customer.

Article 8 | Users

- (1) Contractor is obliged to disclose the obligations arising from the Agreement to the Users. If the Users act in breach of these obligations, Contractor is fully liable to Amber.

Article 9 | Use of the Service

- (1) Customer ensures that only Users make use of the Service.
- (2) Contractor ensures that the Platform and the Vehicles are used by the Users in a proper manner and in accordance with the Agreement and instructions provided by the developer or manufacturer.
- (3) Amber reserves the right, without disclosure of any reasons, to prohibit the use of the Service by certain Users, by sending written notice to Customer.
- (4) Contractor undertakes to ensure that the Users respect all applicable national and international applicable laws and regulations which apply to the Vehicles.

Article 10 | Notification of damage, loss and/or defect to Vehicles

- (1) If there is any damage, loss and/or defects with regard to the Vehicles at any time, Customer shall ensure that this is immediately reported to Amber and subsequently dealt with in accordance with the procedure as set out in the Terms of Use.
- (2) Both Customer and User are obliged to follow all directions given by or due to Amber and to take all measures prescribed in any applicable insurance terms. Customer and User will refrain from statements regarding the debt claim.
- (3) In the event of failure to report as referred to in article 10.1 and in the event of incorrect follow-up of Amber's instructions, Customer is liable for the resulting damage. In such case Amber will not be obliged to reimburse the costs of such repairs, nor has the obligation to provide a replacement vehicle.
- (4) Customer is in all reasonableness obliged to follow the instructions given by or on behalf of Amber to recover the damage. Repairs or recovery of damage will only be performed in repair or damage repair companies designated by Amber.

Article 11 | Fines and other government decisions

- (1) In case Amber is being charged for by a government or government agency for violations of legal rules or for crimes committed with a Vehicle during a Reservation, Contractor is obliged to take on any (financial) consequences thereof. Amber reserves the right to disclose the information of the User's information if so requested.
- (2) If Amber has paid a fine, she is entitled, to increase the amount thereof with a fee for administrative costs and charge it to Customer.
- (3) Contractor indemnifies Amber against all claims and fines that may be enforced against Amber for breach of statutory requirements regarding the condition and use of the Vehicles.

BIJZONDERE BEPALINGEN

Article 12 | Insurance

- (1) If a(n) insurance(s) is part of the Agreement, the corresponding insurance terms shall be deemed form part of the Agreement. Customer can request Amber to submit the most recent insurance terms at any time. When changing the insurance terms, Customer is subject to the changed terms. Amber may change the insurance company without the consent of Customer, provided that the policy conditions and other conditions of the insurance company are at least similar as those of the old insurance company. Amber will notify any Contractor of any changes to the Insurance Terms.



Article 13 | Intellectual Property Rights

- (1) Supplier reserves all rights (including any copyrights, trademarks, patents and any other intellectual property rights) to which it is entitled to under the law. The information presented in the Platform (including texts, graphics and logos) explicitly forms part of Amber's intellectual property rights.
- (2) All documents provided by Amber, such as reports, advice, agreements, designs, sketches, drawings, brochures, photographs, movies, software (inclusive the Platform), etc. are intended solely for use by Contractor and Users in within the scope of the Agreement and may not be reproduced, disclosed or made public to third parties by Contractor and User without the prior consent of Amber, unless from the nature of the documents arises otherwise. Contractor is allowed to share and/or copy the report of any Analysis, but only with an explicit reference to Amber's website (www.ambermobility.com).
- (3) Contractor and Users obtain a limited, personal, revocable, non-exclusive, non-licensable, non-transferable right to use the Platform for the duration of the Agreement in accordance with the terms of the Agreement. Contractor is responsible for ensuring that the Platform is properly used and used by authorized persons only in accordance with the foregoing.
- (4) Amber is allowed to use Contractor's name and logo in presentations, marketing material, contractor overviews, financial reports, website overviews of contractors and through the Platform. Contractor is also allowed to use Amber's name and logo in the same manner as described in the foregoing, but only with an explicit reference to Amber's website (www.ambermobility.com).

Article 14 | Personal Data, Privacy en Data

- (1) With regard to the execution of the Agreement the Parties shall at all times comply with any obligations under Dutch laws regarding (personal) data protection and any other relevant (European) data protection regulations (the "Privacy Laws").
- (2) Processing by or on behalf of Amber of personal data under the Agreement shall at all times be in accordance with Amber's Privacy Statement, which can be consulted at www.ambermobility.com/legal. Further agreements regarding the processing of personal data under the Agreement will be laid down in the Agreement or a separate data processing agreement.
- (3) Contractor is required to disclose to Users the fact that Amber processes personal data from Users who have a protected status under the Privacy Laws. Contractor will disclose to the Users the personal data concerned and the purposes for which these data will be processed. In addition, Contractor shall provide the User with all further information insofar as, in view of the nature of the data, the circumstances under which they are obtained or the use made thereof is necessary to ensure to the User the proper and careful processing. Contractor indemnifies Amber in respect of User claims in relation to the applicable Privacy Laws.

Article 15 | Confidentiality

- (1) The Parties shall be bound to secrecy of all of each other's Confidential Information and shall use the same solely for the purposes of performing the Agreement. The confidential obligations of the Parties shall survive the termination of the Agreement for a period of 5 (five) years.
- (2) The Parties will cause their officers, directors, employees (including Users), agents and affiliated companies to abide by the terms of this **article 15**. Each Party will be responsible for any breach by its officers, directors, employees (including Users), agents and affiliated companies of this **article 15**.
- (3) If a statutory provision or a judicial decision compels the Amber to convey Confidential Information of the Customer to third parties designated by law or by the court and Amber cannot for that purpose invoke a legal right to refuse to give evidence of such a right acknowledged or allowed by the competent court, Amber shall not be held to pay damages or compensation and the Customer shall not be entitled to demand the dissolution of the Agreement on the ground of any damage resulting from said circumstance.
- (4) Confidential Information remains the property of the disclosing Party. Upon written request from the disclosing Party or in case of termination of the Agreement, Confidential Information (including copies thereof) will be returned or destroyed at the first request of the disclosing Party.

Article 16 | Penalty

- (1) If any of the obligations and/or prohibitions laid down **article 13** and **15** of these General Conditions is breached by a Party, the breaching Party agrees to pay to the other Party a penalty fixed by € 50.000,- (fifty thousand



euro) per infringement and a penalty fixed by € 5.000,- (five thousand euro) for each day the infringement continues, without prejudice to such Party's rights to compensation for the actual damages suffered by it under the law.

Article 17 | Amber's Liability

- (1) If the Services executed by Amber to Customer the Agreement does not comply with warranty as set out in the Agreement, Amber's liability vis à vis the Customer shall be limited to the arrangements set out in this **article 13**.
- (2) Unless stated otherwise in these General Conditions or the Agreement, Amber's liability vis à vis the Contractor, Users or third parties for direct damages shall at all times be limited to the amount actually paid out by Amber's commercial liability insurance. The terms and conditions of such insurer are provided to Contractor at first request. Amber is not liable for:
 - a. indirect damage, including but not limited to, consequential damage, loss of profit, lost savings and damage due to business stagnation; and;
 - b. any death or physical injury of Users howsoever caused and no matter whether the death or physical injury results wholly or partly from any act or omission on the part of the Amber and/or its affiliated companies, their employees or any other third party.

Contractor indemnifies Amber and, where necessary, will compensate the Amber for all third-party claims in relation to the foregoing.

- (3) In any event, Amber is not liable for:
 - a. damage in Analyses due to data provided by or on behalf of Contractor;
 - b. damage or additional costs in any form, which are the result of the operation of Vehicles or the Platform, or any part thereof.
- (4) The limitations and exclusions of liability set out herein do not apply in the event that the damage is caused by willfulness, gross fault or gross negligence on the part of Amber.
- (5) Any claim for damages shall expire within one (one) year after the day following which the Contractor became known with the loss and became known with Amber being liable for such damage.

Article 18 | Customer's Liability

- (1) All costs and losses not covered by any applicable insurance and which Amber considers to be the result of an act or omission by Contractor or a User that does not conform to the terms of the Agreement, are borne by Contractor.
- (2) In addition to the provisions of **article 18.1** the following applies. In case of damage to a Vehicle, loss of a Vehicle or non-compliance with the Terms of Use by User, Contractor is initially liable in accordance with the general liability laws. In particular, Contractor is liable for return of the Vehicle in the condition in which User received it. Contractor is liable for all damage suffered by Amber as a result of any event during the Reservation, as well as any damage which in any way relates to the Reservation, subject to the following. The Vehicles are insured in conformity with the terms as set out in the Agreement. Contractor may cancel additional liability for damage from a prior agreed deductible. The amount of risk per loss is stated in the Agreement. This coverage applies only if Contractor complies with all agreed terms and conditions of the Agreement.

Article 19 | Force majeure

- (1) Amber shall not be liable for any failure to fulfill any terms of the Agreement to the extent that such fulfillment has been delayed, hindered, interfered with or prevented by any circumstance whatsoever, foreseen or unforeseen, which is not within its control and amounts to an act of force majeure. In addition to what is designated in the law and case law, force majeure for the purposes of this **article 19** Agreement includes, but is not limited to, strikes, unforeseen stagnation by suppliers or other third parties of which Amber is dependent and government measures.
- (2) Amber is entitled to suspend its performance affected by the force majeure event for as long as such event continues. The Parties shall consult with one another about a solution. If the force majeure event continues for more than two (2) consecutive months then either Party shall be entitled to terminate this Agreement by sending written notice thereof to the other Party. However, in such case termination is only possible for the part of the obligations under the Agreement which has not been fulfilled by Amber and without obligation to compensation for damages to Customer.



- (3) If Amber has, at the time of the occurrence of a force majeure event, partially fulfilled its obligations under the Agreement, she shall be entitled to charge the Customer for the part already fulfilled.

GENERAL CLAUSES

Article 20 | General

- (1) This Agreement is exclusively governed by Dutch law. Any disputes will be submitted to the Courts of Oost-Brabant, seat 's-Hertogenbosch.
- (2) Amber reserves the right to transfer any of its rights and obligations under the Agreement at any time, without further notice than required by law, to another legal entity, including, but not limited to, an affiliated company of Amber.
- (3) Amber may modify these General Conditions unilaterally if, in her opinion, this is necessary as a result of statutory requirements. In the event of modifications to these General Conditions, other than due to statutory requirements, Contractor has the right to object to this in Writing within 14 (fourteen) days of receipt of the amended General Conditions. In such case, the unmodified General Conditions shall remain in force.

