

DRIVE POWERLINE, INC. TERMS AND CONDITIONS (APPLE)

By downloading, installing or using this application or any portion thereof ("Application"), you agree to the following terms and conditions (the "Terms and Conditions") with the proprietor of the Application (the "Company").

1. USE OF APPLICATION

a. The Company grants you the non-exclusive, non-transferable, limited right and license to install and use this Application solely and exclusively for your personal use. The license granted is limited to your use of the Application on any Apple branded product that you own or control and as permitted by the Usage Rules set forth in the Apple, Inc. ("Apple") App Store Terms of Service.

b. You may not use the Application in any manner that could damage, disable, overburden, or impair the Application (or servers or networks connected to the Application), nor may you use the Application in any manner that could interfere with any other party's use and enjoyment of the Application (or servers or networks connected to the Application).

c. You agree that you are solely responsible for (and that the Company has no responsibility to you or to any third party for) your use of the Application, any breach of your obligations under the Terms and Conditions, and for the consequences (including any loss or damage which the Company may suffer) of any such breach.

d. The Company and you acknowledge that these Terms and Conditions are concluded between the Company and you only, and not with Apple. The Company and you, not Apple, are solely responsible for the Application and the content thereof.

e. This Application is intended solely for users who are 16 years of age or older who are appropriately licensed or permitted in accordance with their applicable jurisdiction, and any registration, use or access to the Application by anyone under 16 is strictly prohibited and in violation of these Terms and Conditions. If you are older than 16 but younger than 18 years of age, you may use the Application but only if you either are an emancipated minor or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms and Conditions, and to abide by and comply with these

Terms and Conditions. The Application is not available to any users previously removed by the Company.

2. PROPRIETARY RIGHTS

You acknowledge that (a) the Application contains proprietary and confidential information that is protected by applicable intellectual property and other laws, and (b) Company and/or third parties own all right, title and interest in and to the Application and content, that may be presented or accessed through the Application, including without limitation all Intellectual Property Rights therein and thereto. You consent to the Company's collection of the Collected Information (as defined below).

"Intellectual Property Rights" means any and all rights existing from time to time under patent law, copyright law, trade secret law, trademark law, unfair competition law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide. You agree that you will not, and will not allow any third party to, (i) copy, sell, license, distribute, transfer, modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Application or content that may be presented or accessed through the Application for any purpose, unless otherwise permitted, (ii) take any action to circumvent or defeat the security or content usage rules provided, deployed or enforced by any functionality (including without limitation digital rights management functionality) contained in the Application, (iii) use the Application to access, copy, transfer, transcode or retransmit content in violation of any law or third party rights, or (iv) remove, obscure, or alter the Company's or any third party's copyright notices, trademarks, or other proprietary rights notices affixed to or contained within or accessed in conjunction with or through the Application.

3. MAINTENANCE AND SUPPORT

The Company is solely responsible for providing any maintenance and support services with respect to the Application, as specified in these Terms and Conditions, or as required under applicable law. The Company and you acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application.

4. PRIVACY AND PERSONAL INFORMATION

When you sign up for the Application, we ask for your name, e-mail address, and username and password. The Application uses the SmartCar, Inc. ("SmartCar") platform to collect data about your vehicle from the car manufacturer. You will be asked to agree to the SmartCar Terms of Service and Privacy Policy and to authorize SmartCar to transmit the following information to the Company ("Collected Information"):

When you sign up for the Application:

1. Vehicle make, model, and year
2. Vehicle Identification Number
3. Battery capacity.

Periodically when you operate your vehicle:

1. Odometer reading (mileage, as of the time of collection)
2. GPS location (latitude and longitude, as of the time of collection)
3. Battery (percent and mileage of remaining battery charge)
4. Plug in status for your vehicle: Is the car plugged in?
5. Charge status for your vehicle: Is the car charging, fully charged, not charging.

The Company uses the information we collect to operate the Application for our end-users, including you. We also anonymize and aggregate this information, and, in that form, we may use it for (1) algorithm and product research and development, (2) performance and service enhancements, and (3) analysis and guidance for our commercial customers, individual customers, and electric utility companies. The Company does not sell any identifiable information about our Application users or their vehicles. You consent to the Company's collection of the Collected Information. You may regulate this consent at any time through the "Settings" portion of your Apple branded product. However, termination of your consent to the Company's collection of the Collected Information may impact the services provided by the Application.

5. EXPORT RESTRICTIONS

The Application may be subject to export controls or restrictions by the United States or other countries or territories. You agree to comply with all applicable U.S. and international export laws and regulations. These laws include restrictions on destinations, end users, and end use.

6. TERMINATION

These Terms and Conditions will continue to apply until terminated by either you or the Company as set

forth below. You may terminate these Terms and Conditions at any time by permanently deleting the Application from your mobile device in its entirety. Your rights automatically and immediately terminate without notice from the Company or any third party if you fail to comply with any provision of these Terms and Conditions. In such event, you must immediately delete the Application.

7. INDEMNITY

To the maximum extent permitted by law, you agree to defend, indemnify and hold harmless the Company, its affiliates and their respective directors, officers, employees and agents from and against any and all claims, actions, suits or proceedings, as well as any and all losses, liabilities, damages, costs and expenses (including reasonable attorneys fees) arising out of or accruing from your use of the Application, including your downloading, installation, or use of the Application, or your violation of these Terms and Conditions.

8. DISCLAIMER OF WARRANTIES

a. YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE APPLICATION IS AT YOUR SOLE DISCRETION AND RISK AND THAT THE APPLICATION IS PROVIDED AS IS AND AS AVAILABLE WITHOUT WARRANTY OF ANY KIND.

b. YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR MOBILE DEVICE, OR OTHER DEVICE, OR LOSS OF DATA THAT RESULTS FROM SUCH USE.

c. THE COMPANY FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, WITH RESPECT TO THE APPLICATION. THE FOREGOING DISCLAIMERS ALSO SHALL APPLY TO ANY LIABILITY OF APPLE, INCLUDING, WITHOUT LIMITATION, ANY CLAIMS OF INTELLECTUAL PROPERTY INFRINGEMENT.

d. YOU AGREE AND ACKNOWLEDGE THAT YOU ASSUME FULL, EXCLUSIVE AND SOLE RESPONSIBILITY FOR THE USE OF AND RELIANCE ON THE APPLICATION, AND

YOU FURTHER AGREE AND ACKNOWLEDGE THAT YOUR USE OF OR RELIANCE ON THE APPLICATION IS MADE ENTIRELY AT YOUR OWN RISK. YOU FURTHER ACKNOWLEDGE THAT IT IS YOUR RESPONSIBILITY TO COMPLY WITH ALL APPLICABLE LAWS (INCLUDING TRAFFIC LAWS) WHILE USING THE APPLICATION.

e. THE COMPANY DISCLAIMS ANY WARRANTIES RELATING TO THE ACCURACY OF ITS MAPS, CONTENT, THIRD PARTY ELECTRIC CHARGING STATIONS AND PRICES, NAVIGATION ROUTES, ADDRESSES OR DRIVING DIRECTIONS PRESENTED IN THE APPLICATION. THE COMPANY DISCLAIMS ANY WARRANTIES REGARDING THE APPLICATION'S OPERATION IN AN UNINTERRUPTED OR ERROR-FREE MANNER, OR THAT IT WILL ALWAYS BE AVAILABLE OR FREE FROM ALL HARMFUL COMPONENTS, OR THAT IT IS SAFE, SECURED FROM UNAUTHORIZED ACCESS, IMMUNE FROM DAMAGES, FREE OF MALFUNCTIONS, BUGS OR FAILURES, INCLUDING, BUT NOT LIMITED TO HARDWARE FAILURES, SOFTWARE FAILURES AND SOFTWARE COMMUNICATION FAILURES, ORIGINATING EITHER IN THE COMPANY, ANY OF ITS PROVIDERS OR OTHER THIRD PARTIES. YOUR USE OF THIS REAL TIME ROUTE GUIDANCE APPLICATION IS AT YOUR SOLE RISK. LOCATION DATA MAY NOT BE ACCURATE.

f. NOTWITHSTANDING ANYTHING ELSE CONTAINED HEREIN, IN THE EVENT OF ANY FAILURE OF THE APPLICATION TO CONFORM TO ANY APPLICABLE WARRANTY, YOU MAY NOTIFY APPLE, AND APPLE WILL REFUND THE PURCHASE PRICE FOR THE APPLICATION TO YOU, IF APPLICABLE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, APPLE WILL HAVE NO OTHER WARRANTY OBLIGATION WHATSOEVER WITH RESPECT TO THE APPLICATION, AND ANY OTHER CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS OR EXPENSES ATTRIBUTABLE TO ANY FAILURE TO CONFORM TO ANY WARRANTY WILL BE THE COMPANY'S SOLE RESPONSIBILITY.

g. THE COMPANY AND YOU ACKNOWLEDGE THAT, IN THE EVENT OF ANY THIRD PARTY CLAIM THAT THE APPLICATION OR YOUR POSSESSION AND USE OF THE APPLICATION INFRINGES THAT THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS, THE COMPANY, NOT APPLE, WILL BE SOLELY RESPONSIBLE FOR THE INVESTIGATION, DEFENSE, SETTLEMENT AND DISCHARGE OF ANY SUCH INTELLECTUAL PROPERTY INFRINGEMENT CLAIM.

9. LIMITATION OF LIABILITY
YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE COMPANY, ITS SUBSIDIARIES, ITS AFFILIATES, INCLUDING ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, SUB-CONTRACTORS AND AGENTS, ARE NOT LIABLE TO YOU UNDER ANY THEORY OF LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES THAT MAY BE INCURRED BY YOU THROUGH YOUR USE OF THE APPLICATION, INCLUDING ANY LOSS OF DATA, DAMAGE TO YOUR MOBILE DEVICE, DAMAGE TO YOUR VEHICLE, OR DAMAGE TO YOU, WHETHER OR NOT THE COMPANY OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING. SOME JURISDICTIONS DO NOT ALLOW EXCLUDING OR LIMITING IMPLIED WARRANTIES OR LIMITING LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, AND SOME JURISDICTIONS HAVE SPECIAL STATUTORY CONSUMER PROTECTION PROVISIONS, WHICH MAY SUPERSEDE THESE LIMITATIONS. AS A RESULT, THIS LIMITATION OF LIABILITY MAY NOT APPLY TO YOU IF PROHIBITED BY LAW.

10. THIRD PARTY CLAIMS AND APPLE

The Company and you acknowledge that the Company, not Apple, is responsible for addressing any claims by you or any third party relating to the Application or your possession and/or use of the Application, including, but not limited to: (i) product liability claims; (ii) any claim that the Application fails to conform to any applicable legal or regulatory

requirement; and (iii) claims arising under consumer protection or similar legislation.

11. RESTRICTIONS

You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designed by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

12. MISCELLANEOUS

a. These Terms and Conditions constitute the entire agreement between you and the Company relating to the Application and govern your use of the Application, and completely replace any prior or contemporaneous agreements between you and the Company regarding the Application.

b. The failure of the Company to exercise or enforce any right or provision of these Terms and Conditions does not constitute a waiver of such right or provision, which will still be available to the Company.

c. If any court of law, having the jurisdiction to decide on this matter, rules that any provision of these Terms and Conditions is invalid, then that provision will be removed from the Terms and Conditions without affecting the rest of the Terms and Conditions. The remaining provisions of these Terms and Conditions will continue to be valid and enforceable.

d. The rights granted in these Terms and Conditions may not be assigned or transferred by you without the prior written approval of the Company. You are not permitted to delegate your responsibilities or obligations under these Terms and Conditions without the prior written approval of the Company.

e. These Terms and Conditions and your relationship with the Company under these Terms and Conditions will be governed by the internal substantive laws of the State of California, without regard to its conflict of laws provisions.

f. You and the Company agree to submit to the exclusive jurisdiction of the courts, state and Federal, located in San Francisco, California, United States of America to resolve any legal matter arising from these Terms and Conditions. Notwithstanding this, you agree that the Company will still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

g. Any questions, complaints or claims with respect to the Application should be directed to the Company: Drive Powerline, Inc., 6081 Meridian Ave, Suite 70-301, San Jose, CA 95120; E-mail: support@drivepowerline.com; Phone: 1-866-294-0018.

h. You agree to comply with all applicable third-party terms of agreement or use, including SmartCar's Terms of Service and Privacy Policy.

i. The Company and you acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of these Terms and Conditions, and that, upon your acceptance of these Terms and Conditions, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms and Conditions against you as a third party beneficiary thereof.