

PLUG POWER INC.

AUDIT COMMITTEE CHARTER

(Adopted by the Board of Directors on November 8, 2023)

I. PURPOSE

The purposes of the Audit Committee of the Board of Directors (the “Audit Committee”) of Plug Power Inc. (the “Company”) are to:

- oversee the accounting and financial reporting processes of the Company, the audits, and the integrity of the Company’s financial statements;
- take, or recommend that the Board of Directors of the Company (the “Board”) take, appropriate action to oversee the qualifications, independence and performance of the Company’s independent auditors engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Company (the “Independent Auditors”);
- oversee the performance of the Company’s internal audit function; and
- prepare the report required by the rules of the Securities and Exchange Commission (the “SEC”) to be included in the Company’s annual proxy statement.

II. COMPOSITION

The Audit Committee shall consist of at least three (3) members of the Board, each of whom must (1) be “independent” as defined in Rule 5605(a)(2) under the Listing Rules of The Nasdaq Stock Market LLC (the “Nasdaq Rules”); (2) meet the criteria for independence set forth in Rule 10A-3(b)(1) promulgated under Section 10A(m)(3) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), subject to the exemptions provided in Rule 10A-3(c) under the Exchange Act; and (3) not have participated in the preparation of the financial statements of the Company or a current subsidiary of the Company at any time during the past three years.

Notwithstanding the foregoing, one director who is not “independent” as defined in Rule 5605(a)(2) under the Nasdaq Rules but satisfies the criteria for independence set forth in Section 10A(m)(3) of the Exchange Act and the rules thereunder and is not a current officer or employee or a Family Member (as defined in the Exchange Act) of such officer or employee, may serve on the Audit Committee if the Board, under exceptional and limited circumstances, determines that membership on the Audit Committee by the

director is required by the best interests of the Company and its stockholders, and the Board discloses, in the next annual proxy statement subsequent to such determination, the nature of the relationship and the reasons for that determination. A director serving on the Audit Committee under this exception may not serve on the Audit Committee for more than two years and may not chair the Audit Committee.

Each member of the Audit Committee must be able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement. At least one member of the Audit Committee shall have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities. One or more members of the Audit Committee must qualify as an "audit committee financial expert" under the rules promulgated by the SEC.

The Corporate Governance and Nominating Committee shall recommend to the Board nominees for appointment to the Audit Committee annually and as vacancies or newly created positions occur. The members of the Audit Committee shall be appointed annually by the Board and may be replaced or removed by the Board with or without cause. Resignation or removal of a director from the Board, for whatever reason, shall automatically and without any further action constitute resignation or removal, as applicable, from the Audit Committee. Any vacancy on the Audit Committee, occurring for whatever reason, may be filled only by the Board. The Board shall designate one member of the Audit Committee to be Chairman of the Audit Committee.

No member of the Audit Committee may simultaneously serve on the audit committee of more than three (3) issuers having securities registered under Section 12 of the Exchange Act, unless the Board determines that such simultaneous service would not impair the ability of such member to effectively serve on the Audit Committee.

III. COMPENSATION

A member of the Audit Committee may not, other than in his or her capacity as a member of the Audit Committee, the Board or any other committee established by the Board, receive directly or indirectly from the Company any consulting, advisory or other compensatory fee from the Company. A member of the Audit Committee may receive additional directors' fees to compensate such member for the significant time and effort expended by such member to fulfill his or her duties as an Audit Committee member.

IV. MEETINGS

The Audit Committee shall meet as often as it determines is appropriate to carry out its responsibilities under this Charter, but not less frequently than quarterly. Such meetings shall be in person or by video or telephone conference or such other means by which all persons participating in the meeting can hear each other. A majority of the members of

the Audit Committee shall constitute a quorum for purposes of holding a meeting and the Audit Committee may act by a vote of a majority of the members present at such meeting. In lieu of a meeting, the Audit Committee may act by unanimous written consent.

Periodically, the Audit Committee shall also meet separately with management, with internal auditors (or other personnel responsible for the internal audit function) and with the Independent Auditors.

V. RESPONSIBILITIES AND AUTHORITY

A. Review of Charter

- The Audit Committee shall review and reassess the adequacy of this Charter annually and recommend to the Board any amendments or modifications to the Charter that the Audit Committee deems appropriate.

B. Annual Performance Evaluation of the Audit Committee

- At least annually, the Audit Committee shall evaluate its own performance and report the results of such evaluation to the Board.

C. Matters Relating to Selection, Performance and Independence of Independent Auditors

- The Audit Committee shall be directly responsible for the appointment, retention and termination, and for determining the compensation, of the Independent Auditors. The Audit Committee may consult with management in fulfilling these duties, but may not delegate these responsibilities to management.
- The Audit Committee shall be directly responsible for oversight of the work of the Independent Auditors (including resolution of disagreements between management and the Independent Auditors regarding financial reporting).
- The Audit Committee shall instruct the Independent Auditors that the Independent Auditors shall report directly to the Audit Committee.
- The Audit Committee shall pre-approve all auditing services and the terms thereof (which may include providing comfort letters in connection with securities underwritings) and non-audit services (other than non-audit services prohibited under Section 10A(g) of the Exchange Act or the applicable rules of the SEC or the Public Company Accounting Oversight Board (the “PCAOB”)) to be provided to the Company by the Independent Auditors; provided, however, the pre-approval requirement is waived with respect to the provision of non-audit services for the Company if the “de minimus” provisions of Section 10A(i)(1)(B) of the Exchange Act are satisfied. This authority to pre-approve

non-audit services may be delegated to one or more members of the Audit Committee, who shall present all decisions to pre-approve an activity to the full Audit Committee at its first meeting following such decision.

- The Audit Committee may review and approve the scope and staffing of the Independent Auditors' annual audit plan(s).
- The Audit Committee shall (1) request that the Independent Auditors provide the Audit Committee with the written disclosures and the letter required by PCAOB Rule 3526 ("Rule 3526"), (2) require that the Independent Auditors submit to the Audit Committee at least annually a formal written statement describing all relationships between the Independent Auditors and any of its affiliates and the Company or persons in financial reporting oversight roles at the Company that might reasonably be thought to bear on the independence of the Independent Auditors, (3) discuss with the Independent Auditors the potential effects of any disclosed relationships or services on the objectivity and independence of the Independent Auditors, (4) require that the Independent Auditors provide to the Audit Committee written affirmation that the Independent Auditor is, as of the date of the affirmation, independent in compliance with PCAOB Rule 3520 and (5) based on such disclosures, statement, discussion, and affirmation, take or recommend that the Board take appropriate action in response to the Independent Auditors' report to satisfy itself of the Independent Auditors' independence. In addition, before approving the initial engagement of any Independent Auditors, the Audit Committee shall receive, review and discuss with the audit firm all information required by, and otherwise take all actions necessary for compliance with the requirements of, Rule 3526. References to rules of the PCAOB shall be deemed to refer to such rules and to any substantially equivalent rules adopted to replace such rules, in each case as subsequently amended, modified or supplemented.
- The Audit Committee may consider whether the provision of the services covered in Items 9(e)(2) and 9(e)(3) of Regulation 14A of the Exchange Act (or any successor provision) is compatible with maintaining the Independent Auditors' independence.
- The Audit Committee shall evaluate the Independent Auditors' qualifications, performance and independence, and shall present its conclusions with respect to the Independent Auditors to the full Board. As part of such evaluation, at least annually, the Audit Committee shall:
 - (i) obtain and review a report or reports from the Independent Auditors describing (1) its internal quality-control procedures, (2) any material issues raised by the most recent internal quality-control review or peer review or by any inquiry or investigation by government or professional authorities, within the preceding five years, regarding one or more independent audits it has conducted, and any steps it has taken to address any issues that were identified, and (3) to assess its independence and all relationships between it and the Company;

- (ii) review and evaluate the performance of the Independent Auditors and the lead partner (and the Audit Committee may review and evaluate the performance of other members of the Independent Auditors' audit staff); and
- (iii) assure the regular rotation of the audit partners (including, without limitation, the lead and concurring partners) as required under the Exchange Act and Regulation S-X.

In this regard, the Audit Committee shall also (1) seek the opinion of management and the internal auditors of the Independent Auditors' performance and (2) consider whether, in order to assure continuing auditor independence, there should be regular rotation of the audit firm engaged by the Company to serve as Independent Auditors.

- The Audit Committee may recommend to the Board policies with respect to the potential hiring of current or former employees of the Independent Auditors.

D. Audited Financial Statements and Annual Audit

- The Audit Committee shall review the overall audit plan with the Independent Auditors and the members of management who are responsible for preparing the Company's financial statements, including the Company's Chief Financial Officer and/or principal accounting officer or principal financial officer (the Chief Financial Officer and such other officer or officers are referred to herein collectively as the "Senior Accounting Executive").
- The Audit Committee shall review and discuss with management (including the Company's Senior Accounting Executive) and with the Independent Auditors the Company's annual audited financial statements, including (a) all critical accounting policies and practices used or to be used by the Company, (b) the Company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations" prior to the filing of the Company's Annual Report on Form 10-K, and (c) any significant financial reporting issues that have arisen in connection with the preparation of such audited financial statements. The Audit Committee shall also review and discuss with the Independent Auditors the nature of each identified critical audit matter, the auditor's basis for identifying a matter as a critical audit matter and how each such identified matter will be described in the auditor's report.
- The Audit Committee must review:
 - (i) any analyses prepared by management, the internal auditors, if any, and/or the Independent Auditors setting forth significant financial reporting issues and judgments made in connection with the preparation

of the financial statements, including analyses of the effects of alternative GAAP methods on the financial statements. The Audit Committee may consider the ramifications of the use of such alternative disclosures and treatments on the financial statements, and the treatment preferred by the Independent Auditors. The Audit Committee may also consider other material written communications between the Independent Auditors and management, such as any management letter or schedule of unadjusted differences;

- (ii) major issues as to the adequacy of the Company's internal controls including any special audit steps taken in light of material control deficiencies;
 - (iii) major issues regarding accounting principles and procedures and financial statement presentations, including any significant changes in the Company's selection or application of accounting principles; and
 - (iv) the effects of regulatory and accounting initiatives, as well as off-balance sheet transactions and structures, on the financial statements of the Company.
- The Audit Committee shall review and discuss with the Independent Auditors (outside of the presence of management) the Independent Auditors' plan to handle its responsibilities under the Private Securities Litigation Reform Act of 1995 and request assurance from the Independent Auditors that Section 10A(b) of the Exchange Act has not been implicated.
- The Audit Committee shall review and discuss with the Independent Auditors any audit problems or difficulties and management's response thereto. This review shall include (1) any difficulties encountered by the Independent Auditors in the course of performing its audit work, including any restrictions on the scope of its activities or its access to information, (2) any significant disagreements with management and (3) a discussion of the responsibilities, budget and staffing of the Company's internal audit function.
- This review may also include:
 - (i) any accounting adjustments that were noted or proposed by the Independent Auditors but were "passed" (as immaterial or otherwise);
 - (ii) any communications between the audit team and the audit firm's national office regarding auditing or accounting issues presented by the engagement; and
 - (iii) any management or internal control letter issued, or proposed to be issued, by the Independent Auditors.

- The Audit Committee shall discuss with the Independent Auditors those matters brought to the attention of the Audit Committee by the Independent Auditors pursuant to Public Company Accounting Oversight Board (“PCAOB”) AS 1301: Communications with Audit Committees (as may be amended, “AS 1301”).
- The Audit Committee shall also review and discuss with the Independent Auditors the report required to be delivered by such auditors pursuant to Section 10A(k) of the Exchange Act including financial statements and related footnoted as a whole.
- If brought to the attention of the Audit Committee, the Audit Committee shall discuss with the CEO and CFO of the Company (1) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company’s ability to record, process, summarize and report financial information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act, within the time periods specified in the SEC’s rules and forms, and (2) any fraud involving management or other employees who have a significant role in the Company’s internal control over financial reporting.
- Based on the Audit Committee’s review and discussions (1) with management of the audited financial statements, (2) with the Independent Auditors of the matters required to be discussed by AS 1301, and (3) with the Independent Auditors concerning the Independent Auditors’ independence, the Audit Committee shall make a recommendation to the Board as to whether the Company’s audited financial statements should be included in the Company’s Annual Report on Form 10-K for the last fiscal year.
- The Audit Committee shall prepare the Audit Committee report required by Item 407(d)(3) of Regulation S-K of the Exchange Act (or any successor provision) to be included in the Company’s annual proxy statement.

E. Unaudited Quarterly Financial Statements

- The Audit Committee shall discuss with management and the Independent Auditors, prior to the filing of the Company’s Quarterly Reports on Form 10-Q, (1) the Company’s quarterly financial statements and the Company’s related disclosures under “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” (2) any such issues as may be brought to the Audit Committee’s attention by the Independent Auditors pursuant to PCAOB AS 4105: Reviews of Interim Financial Information, and (3) any significant financial reporting issues that have arisen in connection with the preparation of such financial statements.

F. Earnings Press Releases

- The Audit Committee shall discuss the Company's quarterly earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies, including, in general, the types of information to be disclosed and the types of presentations to be made (paying particular attention to the use of "pro forma" or "adjusted" non-GAAP information).

G. Risk Assessment and Management

- The Audit Committee shall discuss the guidelines and policies that govern the process by which the Company's exposure to financial, accounting and financial statement risk is assessed and managed by management.
- The Audit Committee shall periodically review the Company's major risk exposures, including financial, operational, privacy, security, cybersecurity, competition, hedging and accounting risk exposures and the steps that the Company's management has taken to monitor and control such exposures.
- With respect to oversight of management of cybersecurity risks, the Audit Committee shall obtain and review reports on data management and security initiatives and significant existing and emerging cybersecurity risks, including material cybersecurity incidents, the impact on the Company and its stakeholders of any significant cybersecurity incident, and any disclosure obligations arising from any such incidents.

H. Procedures for Addressing Complaints and Concerns

- The Audit Committee shall establish procedures for (1) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls, or auditing matters and (2) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.
- The Audit Committee should review and reassess the adequacy of these procedures periodically and adopt any changes to such procedures that the Audit Committee deems necessary or appropriate.

I. Regular Reports to the Board

- The Audit Committee shall regularly report to and review with the Board any issues that arise with respect to the quality or integrity of the Company's financial statements, the performance and independence of the Independent Auditors, the performance of the internal audit function and any other matters that the Audit Committee deems appropriate or is requested to review for the benefit of the Board.

J. Audit Related Legal and Regulatory Compliance

- The Audit Committee may discuss with management legal or regulatory matters (including pending or threatened litigation) that may have a material effect on the Company's financial statements or its policies and procedures for complying with legal and regulatory requirements.

K. Related Person Transactions

- The Audit Committee shall review the Company's policies and procedures for reviewing and approving or ratifying "related person transactions" (defined as transactions required to be disclosed pursuant to Item 404 of Regulation S-K of the Exchange Act) and recommend any changes to the Board. In accordance with applicable Nasdaq Rules, the Audit Committee shall review all "related person transactions" on an ongoing basis, and all such transactions must be approved by the Audit Committee.

L. Internal Auditors

- At least annually, the Audit Committee shall evaluate the performance, responsibilities, budget and staffing of the Company's internal audit function and review the internal audit plan. Such evaluation may include a review of the responsibilities, budget and staffing of the Company's internal audit function with the Independent Auditors as well as his or her independence and any relationships or services that might impact the objectivity and independence of the Internal Auditor.
- In connection with the Audit Committee's evaluation of the Company's internal audit function, the Audit Committee may evaluate the performance of the senior officer or officers responsible for the internal audit function.

VI. ADDITIONAL AUTHORITY

The Audit Committee is authorized, on behalf of the Board, to do any of the following as it deems necessary or appropriate:

A. Engagement of Advisors

- The Audit Committee may engage independent counsel and such other advisors it deems necessary or advisable to carry out its responsibilities and powers, and, if such counsel or other advisors are engaged, shall determine the compensation or fees payable to such counsel or other advisors.

B. General

- The Audit Committee may form and delegate authority to subcommittees consisting of one or more of its members as the Audit Committee deems

appropriate to carry out its responsibilities and exercise its powers.

- The Audit Committee may perform such other oversight functions outside of its stated purpose as may be requested by the Board from time to time.
- In performing its oversight function, the Audit Committee shall be entitled to rely upon advice and information that it receives in its discussions and communications with management, the Independent Auditors and such experts, advisors and professionals as may be consulted with by the Audit Committee.
- The Audit Committee is authorized to request that any officer or employee of the Company, the Company's outside legal counsel, the Company's Independent Auditors or any other professional retained by the Company to render advice to the Company, attend a meeting of the Audit Committee or meet with any members of or advisors to the Audit Committee.
- The Audit Committee is authorized to incur such ordinary administrative expenses as are necessary or appropriate in carrying out its duties.

Notwithstanding the responsibilities and powers of the Audit Committee set forth in this Charter, the Audit Committee does not have the responsibility of planning or conducting audits of the Company's financial statements or determining whether the Company's financial statements are complete, accurate and in accordance with GAAP. In addition, the Audit Committee does not have the responsibility to conduct investigations or to ensure compliance with laws and regulations.