

# **PLUG POWER INC.**

## **COMPENSATION COMMITTEE CHARTER**

**(Adopted by the Board of Directors on August 4, 2020)**

### **A. PURPOSE AND SCOPE**

The Compensation Committee (the “Committee”) of the Board of Directors (the “Board”) of Plug Power Inc. (the “Company”), on behalf of the Board, discharges the Board’s specific responsibilities relating to the Company’s compensation policies, plans and programs and the assessment of the Company’s executive officers and management team. The primary objectives of the Committee are (i) to review, prescribe and approve compensation policies, plans and programs that are appropriate for the Company in light of all relevant circumstances, that provide incentives to achievement of the Company’s goals and objectives, that are consistent with the culture of the Company and that further the overall goal of building stockholder value; and (ii) to review and approve changes to the Company’s executive officers and management team as the Company’s needs and priorities evolve over time. The Committee has the authority to undertake the specific duties and responsibilities listed below and will have the authority to undertake such other specific duties as the Board from time to time prescribes.

### **B. COMPOSITION AND MEETINGS**

The Committee shall consist of three (3) members, each of whom shall satisfy the independence standards established pursuant to Rule 5605(a)(2) of the NASDAQ Stock Market Rules, subject to any applicable exceptions in the NASDAQ Stock Market Rules. The Board shall appoint the members of the Committee annually and may replace or remove them at any time, with or without cause. . Unless a Committee chairperson is appointed by the Board, the members of the Committee may designate a chairperson by majority vote of the Committee membership. Resignation or removal of a director from the Board, for whatever reason, shall automatically constitute resignation or removal, as applicable, from the Committee. Vacancies, for whatever reason, may be filled only by the Board.

The Committee shall meet as often as appropriate, in person or by conference telephone or other communications equipment by means of which all participants can hear each other, at the pleasure of the Board and the members of the Committee. A majority of the members of the Committee shall constitute a quorum for purposes of holding a meeting and the Committee may act by vote of a majority of members present at a meeting. In lieu of a meeting, the Committee may act by unanimous written consent in accordance with the Company’s articles of incorporation. Minutes will be kept of each meeting of the Committee and will be provided to each member of the Board. The Committee may make rules for the conduct of its business, but in the absence of such rules its business shall be conducted so far as possible in the same manner as is provided in the Company’s By-laws for the conduct of business by the Board.

## C. RESPONSIBILITIES AND DUTIES

To fulfill its responsibilities and duties, the Committee may, from time to time:

- Review and reassess the adequacy of this Charter annually and submit proposed changes to the Board for approval;
- Review and evaluate the performance of the Company's executive officers and management team, including that of the Chairman of the Board and the Chief Executive Officer and President and approve the appropriate level of compensation and benefits, including base salary, options, or other equity grants and bonuses;
- Exclude the Chief Executive Officer and Chief Financial Officer during voting or deliberations regarding their compensation;<sup>1</sup>
- Evaluate, review and approve employment contracts/severance arrangements and release or separation agreements for the Chief Executive Officer, President and other executive officers and members of the management team;
- Consider and approve actions with respect to the adoption, amendment, administration or termination of compensation, welfare, benefit, pension and other plans for current and former employees of the Company;
- Review and approve the terms and conditions of compensation plans, including eligibility requirements and participants for each such plan, as may be required by the terms of a plan; evaluate the performance of each benefit plan and all fiduciaries of the plans; approve such amendments to the plans and such actions in regard to the plans as the Committee deems appropriate;
- Review and approve incentive compensation plans to allow the Company to attract and retain the personnel it needs to be successful and approve actions that may be necessary or advisable to implement and administer the Company's incentive compensation plans, including equity plans, all in accordance with the terms of such plans, including recommending:
  - employees eligible to participate in incentive compensation plans;
  - performance goals for all incentive compensation plans;
  - the amount, type and terms of any award under an incentive compensation plan, including methods of payment and participant rights upon termination of employment;
  - forms of award agreements or instruments reflecting awards made under the incentive compensation plans;
  - the interpretation of incentive compensation plans and agreements or instruments entered into under them;
  - rules and regulations for administering such plans, agreements, and instruments; and

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<sup>1</sup> Required by NASDAQ Stock Market Rule 5605(d)(1)(B) and generally considered good practice.

- amendments or modifications to the terms and conditions of outstanding incentive compensation plan awards, agreements, and instruments;
- Monitor the Company’s compliance with the requirements under the Sarbanes-Oxley Act of 2002 relating to loans to directors and officers, and with all other applicable laws affecting employee compensation and benefits;
- Evaluate and approve actions with respect to the Company’s compensation of non-employee directors;
- Review and evaluate the composition of the Company’s executive officers and management team from time to time in light of the Company’s growth and changing needs;

Review and approve the retention or termination of any consulting firm or other outside advisor, including approval of fees and other terms thereof, on compensation matters that is to be used by the Company or the Committee to assist in the evaluation of director, officer or executive compensation;

- Review and discuss with management the Compensation Discussion and Analysis, if any, to be included in the Company’s proxy statement or annual report on Form 10-K (“CD&A”);
- Based on its review and discussions with management, recommend to the Board that the CD&A, if and when required, be included in the Company’s proxy statement or annual report on Form 10-K;
- Prepare the Compensation Committee Report to be included in the Company’s proxy statement or annual report on Form 10-K in accordance with the rules and regulations of the Securities and Exchange Commission, the NASDAQ Stock Market rules, and any other rules and regulations applicable to the Company;
- Have sole responsibility for the appointment, compensation and oversight of the work of any compensation consultant, legal counsel or other adviser (each, a “Consultant”) it retains (payment, as determined by the Committee, of reasonable compensation to any such Consultant to be funded by the Company);<sup>2</sup>
- Before selecting a Consultant consider all factors relevant to the Consultant’s independent from management of the Company, including the following:
  - The provision of other services to the Company by the Consultant’s employer;
  - The amount of fees received from the Company by the Consultant’s employer, as a percentage of the total revenue of the Consultant’s employer;
  - The policies and procedures of the Consultant’s employer that are designed to prevent conflicts of interest;

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<sup>2</sup> Required by NASDAQ Stock Market Rule 5605(d)(3)(B) and (C).

- Any business or personal relationship of the Consultant with a member of the Compensation Committee;
- Any stock of the Company owned by the Consultant; and
- Any business or personal relationship of Consultant or the Consultant's employer with an executive officer of the Company.

The foregoing shall not apply to inside legal counsel or to a Consultant whose role is limited to the following activities for which no disclosure would be required under Item 407(e)(3)(iii) of Regulation S-K: (i) consulting on a broad-based plan that does not discriminate in scope, terms, or operation, in favor of executive officers or directors of the Company, and that is available generally to all salaried employees or (ii) providing information that either is not customized for a particular company or that is customized based on parameters that are not developed by the Consultant and about which the Consultant does not provide advice.

- Prohibit the Company from engaging a compensation consultant engaged by the Committee, or an affiliate of any such compensation consultant, to provide any other services to the Company without the approval of the Committee; and
- Exercise such additional powers as may be reasonably necessary or desirable, in the Committee's discretion, to fulfill its responsibilities and duties set forth in this Charter.