

## Terms and Conditions

These Terms and Conditions (“Agreement”) sets forth the terms of Your agreement to purchase goods and services (the “Work”) from Future Mobility, LLC, d/b/a “Future Energy” (“FE”) subject to the prices, quantities, terms and conditions set forth in Your Purchase Order and Installation and Invoicing Milestones or in a Proposal (collectively the “Purchase Order”) and governed by the terms and conditions contained in this Agreement. As used herein, (“You”, “Your”, or “Customer”) refers to the customer. Acceptance of a proposal or issuance or submission of a Purchase Order to FE shall be deemed acceptance of this Agreement and the corresponding quotation from FE that relates to Your Purchase Order or a Proposal sent to you by FE (“Proposal”).

**Property Rights.** Unless stated in an applicable Purchase Order, FE owns all rights, title and interest in FE trade names, service marks, inventions, copyrights, trade secrets, patents, and know-how relating to the design, function, or operation of plans and of the hardware and software systems and resources necessary to provide the individual service elements of which the Work consists. This Agreement does not constitute a license to You to use FE’s trade names or service marks. Notwithstanding the foregoing, You hereby consent to FE’s non-exclusive use of Your trademark and/or logo, for the purpose of displaying Your status as a customer of FE.

**Taxes.** Fees under a Purchase Order do not include applicable taxes unless so indicated. New Work and/or Change Orders will result in additional fees/charges. You will be solely responsible, where applicable, for paying local and state personal property taxes associated with Your equipment or Work, including work in progress. In the event that FE is required by a governmental authority to pay taxes on Your behalf, FE will have the right to be reimbursed by You for such amount. You must reimburse FE within 30 days of written notice that a tax has been paid on Your behalf by FE.

**Term Renewals.** Upon expiration of Your initial term for any monthly recurring or subscription services, this Agreement shall automatically renew for successive one-year terms at FE’s then-current rates, unless You provide written notice of termination at least ninety (90) days prior to the end of the then-current term. All renewals shall be subject to the same terms and conditions set forth herein unless otherwise agreed in writing by the Parties.

**Acceptance.** FE may reject any Purchase Order at its discretion. This Agreement will remain in full force beginning from the date of FE’s acceptance of any Purchase Order for the Work and will apply to all future Work You purchase from FE.

**Non-Payment.** If FE does not receive full payment within Forty-Five (45) days of submission of a valid invoice under this Agreement FE shall provide written notice to Customer and shall have the right to immediately suspend all work under this Agreement without cost until payment is received. FE shall be entitled to a day for day extension for all work under this Agreement for each day of suspension under this section. Additionally, FE shall be entitled to charge, and Customer shall be required to pay, for all reasonable direct costs incurred as a result of the late payment and suspension in work, including but not limited to additional mobilization costs.

In addition to any other remedies under section, in the event FE does not receive full payment within 45-days of submission of a valid invoice under this agreement, FE will retain all rights to immediately file a mechanics lien for the unpaid amount in accordance with applicable law. Filing of such a lien shall not entitle Customer to withhold payment on any invoice.

**Billing and Collection of Charges.** You will be billed by FE as specified in the Proposal or Purchase Order. Subject to the terms of Your Purchase Order, FE reserves the right to increase Your cost for Work in the event of a material change or increase which increases the cost of providing the Work to You. All late payments will be assessed a late payment fee of One Point Five Percent (1.5%) per month, or the highest amount allowable by law in the event that 1.5% per month is found to be usurious.

**Exclusions / Additional Charges.** The items stated below are the sole and exclusive responsibility of Customer and shall be excluded from any Proposal. Customer will be billed separately pursuant to a Change Order for any additional charges incurred by FE relating to the following items (unless specifically identified on the Proposal):

- Electrical utility fees or delays caused by the Electrical Utility Company.
- Bonding and/or Payment / Performance Bonds.
- Overtime- all work quoted in the Proposal is to occur between 7:30am-3:30pm. If overtime or off hours are needed, Customer will incur additional charges.
- Unforeseen or hidden conditions.
- Hazardous materials abatement, disposal, and/or additional fees incurred to allow for safe working conditions.
- Any Department of Transportation special requirements.
- Fees relating to temporary power installation. The Proposal assumes that there is an available: temporary power source, water source, employee parking facilities, and sanitary facilities (which will be provided to FE at no cost).
- Any allowances, and/or contingencies not specifically noted in the Proposal.
- Landscaping, tree removal, irrigation repair, and/or repairs to existing trees. Blasting, large rock removal, and/or dewatering of any kind.
- Any required access doors not specifically stated in the Proposal.
- Arc flash studies and utility or other coordination.
- Any ADA special requirements or other special disability construction requirements required by State or local law.
- Breaker testing and shunt-trip wiring.
- Physical voice, data, and security conduits, wiring, and equipment.
- Any changes or work concerning the primary transformers and feeders. Load break elbows for new utility transformers furnished by the applicable utility company.
- Spare parts.
- Responsibility for any pre-existing code violations. Modifications or electrical code violation upgrades to existing equipment.
- Customized signage and/or graphics and line painting.
- Delays and/or missed completion dates due to material shortages.
- Responsibility for delays due to the permit approval process.

- Changes as a result of a load study which requires us to provide alternate solutions.
- Additional mobilization of contractors / personnel.
- Removal or relocation of any above or below grade obstructions.
- Modification of building structure to support piping or utilities.
- Unless specified, any existing equipment, infrastructure upgrades, or repairs.
- Responsibility for contaminated soils of any kind and soil or concrete testing, if required (Proposal is based on suitable soil conditions).
- Winter charges, or weather delays.
- All private underground utilities are to be marked out prior to the start of construction. If the customer fails to clearly stake out all private underground utilities/property, then the customer releases provider from any and all liability for underground property damage related to this installation. FE is not responsible for damages due to unidentified utilities.
- Engineering/Architectural drawings, site plans, and permits (unless stated in the Proposal).

**Billing Disputes.** ALL PAYMENTS TO FE ARE NON-REFUNDABLE. If You dispute a term or amount on an invoice, You must do so in writing within 30 days from the invoice date. Disputes must be sent by certified mail at the address provided for herein.

You shall use Your best efforts to immediately inform FE in writing of any apparent defects in the Work as soon as possible from the time at which such defects should be detectable in the ordinary course of business. Notwithstanding the foregoing, any and all defects must be reported to FE in writing within thirty (30) days of acceptance of the applicable Work. You must pay an amount equal to the part of the invoice that is not in dispute. Payment of the amount of the invoice not in dispute will not be deemed to constitute acceptance of the portion of the invoice that is in dispute. You specifically agree that payments to FE shall not be subject to retention and You may not withhold any payment to FE based upon retention.

**Transfers and Assignments.** You may not assign or transfer Your rights or duties in connection with the Work provided by FE without the prior written consent of FE. All transfers of rights or duties herein, without the advanced permission in writing of FE, shall be void and unenforceable as a matter of law. In the event of a sale of Your company (whether by asset or equity sale), You agree to provide a copy of this Agreement and the Purchase Order to the purchaser and to have the purchaser be bound by this Agreement.

**Credits, Rebates, and Incentives.** Any literature or written materials provided to You regarding tax or utility incentives, credits, rebates, or benefits are strictly for informational purposes only. FE cannot and does not guarantee that any of the tax or utility incentives, credits, rebates, benefits, or similar incentives identified or mentioned in FE documents will be granted to any individual, organization, or entity. FE is not endorsing any of these incentive programs, credits, rebates, or benefits. FE makes no representation as to the likelihood that an incentive, credit, rebate, or benefit will be granted. FE has no knowledge of whether a particular incentive, rebate, or credit is consistently granted or if certain incentives have a higher chance of being granted. FE specifically makes no warranty in regards to the timeliness or availability of incentives, grants, credits, or rebates being requested. By entering into this Agreement, you agree to assume all risk for the application of tax or utility incentives, credits, rebates, benefits, or similar incentives. FE

makes no warranty as to the qualifications of an individual or organization or entity to obtain an incentive, credit, rebate, or benefit. FE does not state or imply that each and every Order will be eligible for an incentive, credit, rebate, or benefit. Eligibility for tax or utility incentives, credits, rebates, benefits, or similar incentives may vary by jurisdiction and are subject to change at any time. Please carefully consult the Internal Revenue Service guidelines on how to qualify for the energy efficiency tax credit or a licensed certified public accountant. FE does not provide professional counseling is not your energy counselor or tax consultant.

**Limitation of Liability.** FE SHALL NOT BE LIABLE FOR ANY AND ALL: DIRECT, INDIRECT, INCIDENTAL, GENERAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF BUSINESS OR BUSINESS OPPORTUNITY OR LOSS OF USE, EVEN IF CUSTOMER IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, TO CUSTOMER FOR A BREACH OF THIS AGREEMENT, OR AN PURCHASE ORDER OR TERM AND CONDITION OF FE. IN THE EVENT THAT YOU BRING A CLAIM AGAINST FE ALLEGING A BREACH OF THIS AGREEMENT, A PURCHASE ORDER, OR AN OBLIGATION BY FE, CUSTOMER'S DAMAGES SHALL BE LIMITED TO \$500. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, YOU AGREE TO ACCEPT THE WORK ON AN "AS-IS" NON-WARRANTABLE BASIS, UNLESS SPECIFIED IN THE PROPOSAL OR PURCHASE ORDER. FE EXPRESSLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE REGARDING THE PROVIDING OF THE WORK TO YOU. YOU AGREE THAT FE SHALL NOT BE LIABLE FOR DAMAGES INCURRED OR SUMS PAID WHEN THE WORK IS TEMPORARILY OR PERMANENTLY UNAVAILABLE, REGARDLESS OF WHETHER ANY REMEDY PROVIDED IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE. YOU AGREE THAT YOU WILL NOT HOLD FE RESPONSIBLE FOR ANY SELECTION OR RETENTION OF, OR THE ACTS OR OMISSIONS OF THIRD PARTIES IN CONNECTION WITH THE WORK, OR HOLD A THIRD PARTY RESPONSIBLE FOR ANY SELECTION OR RETENTION OF, OR THE ACTS OR OMISSIONS OF, FE IN CONNECTION WITH THE SERVICES. WITHOUT LIMITING THE FOREGOING, YOU AGREE TO INDEMNIFY FE AND THAT YOU WILL NOT HOLD FE RESPONSIBLE FOR: (A) BREACHES OF SECURITY, FAILURES OF THE INTERNET, VIRUSES, TROJAN HORSES, MALICIOUS CODE, OR OTHER HARMFUL COMPONENTS, (B) THIRD PARTY CLAIMS AGAINST YOU FOR DAMAGES, (C) LOSS OF OR DAMAGE TO CUSTOMER'S RECORDS, PROPERTY, OR DATA OR THOSE OF ANY THIRD PARTY, OR (D) AN ALLEGED BREACH OF A THIRD PARTY, INCLUDING BUT NOT LIMITED TO INTELLECTUAL PROPERTY CLAIMS OF THIRD PARTIES, SECURITY BREACHES, OR PRIVACY AND DATA BREACHES. YOU AGREE TO MAKE ALL CLAIMS RELATED TO THE WORK DIRECTLY AGAINST FE, AND WAIVE ANY RIGHT TO RECOVER DAMAGES (DIRECTLY OR BY INDEMNITY) RELATED TO THE WORK BY CLAIMING AGAINST OR THROUGH A THIRD PARTY TO THIS AGREEMENT. FE MAKES NO WARRANTY THAT THE WORK OR ANY INFORMATION, SOFTWARE, OR OTHER MATERIAL ACCESSIBLE ON THE WORK IS FREE FROM VIRUSES, TROJAN HORSES, OR OTHER HARMFUL COMPONENTS. BY CONNECTING, YOU

**ACKNOWLEDGE AND ACCEPTS THE RISKS ASSOCIATED WITH PUBLIC ACCESS TO THE INTERNET.**

**Notices and Communications.** You must designate on Your Purchase Order a mailing address and e-mail address to which FE may mail or deliver notices and other communications. All notices You send to FE must be in writing, by registered mail, sent to:

**Future Mobility, LLC d/b/a “Future Energy”  
3250 West Big Beaver Road  
Suite 520  
Troy, Michigan 48084**

**Applicable Law. Venue and Jurisdiction. Dispute Resolution.** This Agreement shall be subject to and governed by the laws of the State of Michigan. Any claim under this Agreement may be arbitrated in Oakland County Michigan if FE gives advanced written consent to You to arbitrate. Notwithstanding the foregoing, venue for any legal action arising out of this Agreement shall be exclusively within the State of Michigan, Oakland County Circuit Court or the Federal District Court for the Eastern District of Michigan.

**Partial Invalidity. Waiver. Conflict of Terms. Remedies.** If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, the remaining provisions will nevertheless remain in full force and effect. One or more waivers of a breach of the terms and conditions of this Agreement shall not constitute a waiver of any future breach thereof. In addition, should a term of this Agreement and any other posted policy of FE be in conflict with one another, this Agreement shall control. In the event of a breach or violation by You of this Agreement, FE shall be entitled to injunctive relief, in addition to any other remedy including monetary damages.

**Statute of Limitations.** **YOU AGREE THAT ANY CLAIM AGAINST FE, WHETHER ARISING IN TORT, CONTRACT OR OTHERWISE, MUST BE BROUGHT WITHIN 12 MONTHS OF THE DATE GIVING RISE TO THE CLAIM. YOU SPECIFICALLY ACKNOWLEDGE THAT ABSENT THIS AGREEMENT; YOU WOULD BE ENTITLED TO A GREATER DURATION TO BRING A CLAIM. WITH FULL KNOWLEDGE OF THOSE STATUTORY RIGHTS, YOU FREELY ENTER INTO THIS AGREEMENT SUBJECT TO THE CONDITIONS AND LIMITATIONS SET FORTH HEREIN.** In the event that a Court of competent jurisdiction determines that this provision is invalid, that Court is hereby empowered to modify this clause to the shortest statute of limitations period available by law.

**Confidentiality.** You shall not ever, directly or indirectly, (either during the term of this Agreement or after the termination of this Agreement) copy, disclose, communicate, distribute, reveal or use in any way, the Confidential Information of FE. Where used herein, Confidential Information shall refer to: customer lists, customer data, financial information, pricing, Quotations, FE’s processes, FE’s know how and techniques, insurance information, referral data, financial data and contact lists, prospects, customers, ex-customers, referral attorneys, account lists and information, client lists, ex-client lists, client information, personnel information, prices, vendor material, client contract specifications, passwords, user names, and profiles, trade secrets,

knowhow, sales and marketing plans, current and future business plans, and other proprietary information relating to the Company (collectively, referred to herein as “Confidential Information”). The parties agree that the Confidential Information is vital to the Company’s business and that the success and competitive advantage of the Company vitally depends on the maintenance of said Confidential Information.

**Entire Agreement; Modifications.** This Agreement and Your Purchase Order set forth the entire Agreement and understanding between the parties and merges and supersedes all prior discussions and agreements between them. This Agreement may not be modified except by the written consent of both parties.

**Incorporation of Privacy Policy.** These terms incorporate and include FE’s Privacy Policy.

**Incorporation of Acceptable Use Policies.** These terms incorporate and include FE’s Acceptable Use Policies (AUP).

**Risk of Loss.** At all times, You will bear the risk of any loss, damage or destruction of Your assets and equipment or property, assets, or equipment provided to You or maintained by FE, from: fire, water damage, theft or other casualty. You will be solely responsible for insuring Your property and property, assets, and equipment provided to You by FE and filing insurance claims for losses associated therewith. If FE is aware of loss or casualty to Your property, FE will notify You, stating the extent of loss or damage incurred and the cause, if known.

**Change Orders.** FE shall make all changes from the original plans and specifications when agreed upon in writing between FE and Customer. Any changes in compensation and/or changes in time to complete the Work shall be pursuant to an agreed written Change Order (CO). The change in compensation and/or the change in time to complete the work as indicated in the written agreed change order shall constitute the entire amount of additional compensation and additional time to complete the work related to the change and shall constitute a waiver of any further claims for additional compensation including but not limited to extended overhead, delay, home office overhead, acceleration, or loss of efficiency, and for additional time to complete the Work.

**Timing of Change Order.** Any Change Order issued on a Work Order where FE has already substantially completed the original scope of work and demobilized from the site shall be subject to additional remobilization costs and shall entitle FE to an extension of time necessary to complete the Change Order work.

**Overtime and Extra Shifts.** Where overtime or extra work is required due to disruptions or delays caused by You, FE shall be entitled to reimbursement of the portion of such approved overtime, plus a reasonable markup for overhead and profit.

**Returns and Exchanges.** All returns or exchanges are subject to limitations by the applicable manufacturer. All returns and exchanges are subject to a restocking and / or exchange fee to be determined at the time of return or exchange (if applicable). You are required to pay for all

shipping expenses to return or exchange products ordered from FE. All shipments for exchanges and returns must be properly insured by You for the full replacement value.

**Indemnification.** You agree to indemnify, defend, and hold FE harmless, as well as its subsidiaries, affiliates, officers, directors, employees, agents, licensors, consultants, suppliers, and any third-party suppliers, from and against all claims, demands, actions, liabilities, losses, expenses, damages, judgments and costs, including attorneys' fees, resulting from Your violation of this Agreement, misuse or abuse of the Work, violation of State or Federal law, or infringement of the Intellectual Property of others in relation to Your Purchase Order or this Agreement. FE reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by You. You must not in any event accept a settlement of any dispute relating to this contract without prior written consent of FE.

Further, You warrant that there are no patents, copyrights, or other proprietary rights which will or may be infringed upon by FE production and design changes to the Work. You hereby agree to indemnify, defend, and hold FE harmless, as well as its subsidiaries, affiliates, officers, directors, employees, agents, licensors, consultants, suppliers, and any third-party suppliers, from and against all claims, demands, actions, liabilities, losses, expenses, damages, judgments and costs, including attorneys' fees, resulting from and against any and all claims, demands, actions, liabilities, losses, expenses, damages, judgments and costs, including attorneys' fees, resulting from any claim that the design contained in the Work or applicable Purchase Order infringes upon the intellectual property of any third party, or that Your design or that any product manufactured from that design was defective.

**Force Majeure.** In no event will FE be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, pandemics, work stoppages, supply chain delays, logistics delays, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, delays outside of the control of FE, utility company delays, or delays caused by communications or computer (software and hardware) services. FE will use reasonable efforts to resume performance as soon as practicable under the circumstances.

**Press Releases.** Upon execution of this Agreement either Party may make a press release concerning this Agreement or any other newsworthy event. Such press release shall be subject to the written approval of the other Party, which approval will not be unreasonably withheld, conditioned, or delayed.

**Attorneys' Fees.** If legal proceedings are instituted to enforce any or the terms and conditions of Your Purchase Order or this Agreement, You agree to pay all costs of FE in connection therewith, including actual attorneys' fees, court costs, and other costs of collection.