



## FORD PRO EV CHARGING SOLUTIONS SOFTWARE SALES TERMS & CONDITIONS

These Ford Pro EV Charging Solutions Software Sales Terms and Conditions (together with all Sales Orders, these “T&Cs”) are a legally binding agreement between Customer and Ford Pro, effective upon your acceptance hereof by clicking the “Accept” button (the “Effective Date”). Customer and Ford Pro are occasionally referred to herein as the “Parties” or, individually, as a “Party.”

### 1. SUBSCRIPTION; ACTIVATION.

(a) **Subscription to Software.** Ford Pro will license to Customer, and Customer will purchase such license from Ford Pro via Subscription, the Software identified in one or more Sales Orders, for use by Customer and, as applicable, its Operators, throughout the Term. These T&Cs govern the Parties’ relationship with respect to the license of the Software, which will commence upon the earlier of (i) activation of the Fleet Account as specified in **Section 1(b)**, (ii) electrification of the Hardware via Installation and (iii) the date that is thirty (30) days after the date on which the applicable Hardware is delivered to Customer (such date, the “**Licensing Start Date**”); provided, however, that immediately upon the processing of 100kW-hr of energy for the Hardware that corresponds to such Subscription, the Subscriptions for all remaining Software under the same Sales Order for such location shall also commence. Ford Pro may designate one or more Affiliates or Representatives to provide any of the Software or related services specified as being provided by Ford Pro under these T&Cs. A description of currently available Software and Subscriptions, which, in each case, Ford Pro may Update from time to time during the Term, is available on the Ford Pro website at <https://fordpro.com/en-us/intelligence/>.

(b) **Activation of Fleet Account.** Customer’s access to the Software requires: (i) Customer’s prior activation of its Fleet Account at [www.fcsfleet.ford.com](http://www.fcsfleet.ford.com) (the “**Fleet Login**”) and (ii) prior agreement to the Fleet Management Subscription Services Terms and Conditions (the “**Subscription Services T&Cs**”), which govern Customer’s usage of the Software during the Term. Fleet Login information is granted to Customer solely for Customer’s own usage as specified in these T&Cs, and Customer will keep all such Fleet Login information as confidential Information.

### 2. PRICING AND PAYMENT TERMS.

(a) **Fees; Invoicing; Payments.** Customer shall pay the Subscription Fee to Ford Pro on a pre-paid or periodic basis, as specified in the applicable Sales Order, for the period beginning on the Licensing Start Date. For the avoidance of doubt, pursuant to **Section 1(a)**, the Subscription may begin, and the Subscription Fee may become due and payable by Customer, notwithstanding Customer’s failure to activate its Fleet Account (whereby Customer accesses such Subscription) or Customer’s delay in electrification of the Hardware via Installation. Invoices shall be payable by Customer in U.S. dollars and due, if not pre-paid, within thirty (30) days after the date of, or as otherwise specified in, the applicable Invoice. For pre-paid accounts, periodic Invoices will reflect amounts paid.

(b) **Disputed & Late Payments.** To the extent Customer disputes any amounts included in an Invoice, Customer shall provide Notice to Ford Pro no later than fifteen (15) days after the date Customer receives such Invoice, specifying in detail all disputed Invoice amounts. The Parties will seek to resolve any such Dispute expeditiously and in good faith. Each Party will continue performing its obligations under these T&Cs, notwithstanding such Dispute. Disputed Invoices are not subject to reduction or set-off by Customer without Ford Pro’s prior written approval. Finance charges of one percent (1%) per month or, if lower, the maximum rate permitted by Applicable Law, calculated daily and compounded monthly, shall accrue on any late payments, whether or not such amounts were withheld subject to a dispute, and Customer will reimburse Ford Pro for all costs incurred in collecting any late payments, including reasonable attorneys’ fees. Except as otherwise specified in **Section 3(d)** and **Section 3(e)**, all payment obligations are noncancellable and non-refundable.

### 3. TERM, TERMINATION, CANCELLATION & DISCONTINUATION; REFUND.

(a) **Term.** Unless terminated as provided in these T&Cs, these T&Cs commence upon the Effective Date and continue with respect to a Subscription until the earlier of the following: (i) expiration of the applicable initial term specified in the Sales Order (the “**Initial Term**”) or any Renewal Term, after Customer’s timely delivery to Ford Pro of Notice of non-renewal, (ii) termination of these T&Cs as specified in **Section 3(b)**, (iii) cancellation by Customer of all Subscriptions, as specified in **Section 3(d)**, or (iv) discontinuation by Ford Pro of all Software under all of Customer’s Subscriptions, as specified in **Section 3(d)**. THE INITIAL TERM SPECIFIED IN THE SALES ORDER SHALL BE A MONTHLY, YEARLY, THREE (3)-YEAR OR FIVE (5)-YEAR PERIOD. EACH SUBSCRIPTION SHALL AUTOMATICALLY RENEW FOR SUCCESSIVE ONE (1)-YEAR PERIODS (EACH, A “**RENEWAL TERM**”, AND THE INITIAL TERM, TOGETHER WITH ANY RENEWAL TERM(S), THE “**TERM**”) AT THE SUBSCRIPTION FEE THEN APPLICABLE AT THE TIME OF SUCH AUTOMATIC RENEWAL, UNLESS CUSTOMER PROVIDES NOTICE TO FORD PRO OF ITS INTENTION NOT TO RENEW AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE OF THE THEN-CURRENT TERM OR OTHERWISE CANCELS THE SUBSCRIPTION AS PROVIDED IN **SECTION 3(D)**.

(b) **Termination.** Each Party may terminate these T&Cs, in each case upon the specified Notice, in the event of a Change of Control of Customer or the other Party’s: (i) material breach of its obligations, unless Cured; (ii) Insolvency; or (iii) as otherwise provided in these T&Cs, including as specified in **Section 3(d)**. A terminating Party shall give fourteen (14) days’ advance Notice of termination, except in the case of Insolvency, where a Party may terminate immediately upon Notice. If, in either Party’s reasonable discretion, a material breach cannot be Cured, the non-breaching Party may immediately terminate these T&Cs and cancel all Subscriptions, upon Notice, and such termination will be treated as a termination for cause pursuant to this **Section 3(b)**.

(c) **Effect of Termination.** Upon termination of these T&Cs for any reason permitted pursuant to **Section 3(b)**, all rights and obligations of the Parties, other than those that are specified in **Section 7(I)** as surviving termination, will cease, and all Subscriptions will be canceled. Termination of these T&Cs by either Party will not limit a Party from pursuing any other remedies specified in these T&Cs as being available to such Party, nor will termination of these T&Cs by Customer release Customer from its obligation to pay all Invoices (whenever issued) for any Subscription Fees then due and owed, except as otherwise specified in **Section 3(e)**.

(d) **Cancellation; Discontinuation.** Customer may cancel a Subscription by contacting the Customer Relationship Center at 1-833-327-3673 or [fcs1@ford.com](mailto:fcs1@ford.com), specifying the effective date of such cancellation and whether it applies to all or certain specific Hardware then subject to such Subscription. On the termination date specified in the cancellation Notice, Ford Pro will stop performing its obligations under these T&Cs with respect to such Subscription. Ford Pro may discontinue Software from time to time upon reasonable advance Notice to Customer. On the effective date of such discontinuance, Ford Pro will stop performing its obligations under these T&Cs with respect to the discontinued Software, preserving the Subscription for Software not subject to such Notice. In any such event, Ford Pro will reimburse Customer for the applicable portion of the Subscription Fee attributable to the discontinued Software as specified in **Section 3(e)**.

(e) **Refund for Certain Terminated Subscriptions.** Upon any termination of these T&Cs for cause by Customer, or upon the discontinuation of any Software by Ford Pro without termination of these T&Cs, in each case solely to the extent that such termination or discontinuation affects the amount of pre-paid Subscription Fees actually paid by Customer, Ford Pro shall refund to Customer a pro-rata portion of any such pre-paid Subscription Fees based upon the remaining Subscription term. UPON TERMINATION OF THESE T&CS FOR ANY REASON OTHER

THAN FOR CAUSE, OR UPON CANCELLATION BY CUSTOMER WITHOUT TERMINATION OF THESE T&CS, CUSTOMER SHALL NOT BE ENTITLED TO ANY REFUND OF ANY SUBSCRIPTION FEES AS A RESULT OF SUCH TERMINATION OR CANCELLATION. EXCEPT AS SPECIFIED IN THIS SECTION 3(E), IN NO EVENT SHALL ANY TERMINATION OF THESE T&CS, OR CANCELLATION OF A SUBSCRIPTION WITHOUT TERMINATION OF THESE T&CS, RELIEVE CUSTOMER OF ANY UNPAID SUBSCRIPTION FEES DUE AND OWED BY CUSTOMER FOR THE SUBSCRIPTION TERM IN WHICH THE TERMINATION OCCURS OR ANY PRIOR SUBSCRIPTION TERM.

#### 4. LIMITED WARRANTY; INDEMNITIES.

(a) **Limited Warranty and Disclaimer.** Ford Pro's sole limited warranty to Customer, which is not available to Operators, is that the Software provided via Subscription has been tested in accordance with then-prevailing industry practices and, when operated by Customer in accordance with Subscription specifications, is expected to perform substantially in accordance with the functional specifications identified in the Subscription during the Term (the "**Software Warranty**"). Customer's exclusive remedy, and Ford Pro's entire liability, in connection with this Software Warranty will be for Ford Pro to undertake commercially reasonable efforts, in its sole discretion, to remedy material Software performance issues, including via Update. If Ford Pro determines that it cannot provide such remedies set forth in the prior sentence in a commercially reasonable manner, in Ford Pro's sole discretion, Ford Pro may discontinue the applicable Software as specified in Section 3(d) or terminate these T&Cs, in each case, subject to the refund requirement specified in Section 3(e).

(b) EXCEPT FOR THIS SOFTWARE WARRANTY, THE SOFTWARE IS PROVIDED "AS IS" AND "AS AVAILABLE" FOR CUSTOMER'S USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT, AND CUSTOMER AGREES THAT IT HAS NOT RELIED UPON ANY WARRANTY, WHETHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING, FORD PRO DOES NOT WARRANT THAT (A) CUSTOMER'S USE OF THE SOFTWARE WILL BE UNINTERRUPTED, TIMELY, SECURE, FREE FROM ERROR, OR MEET CUSTOMER'S REQUIREMENTS; (B) ALL CONTENT AND OTHER INFORMATION OBTAINED BY CUSTOMER FROM OR IN CONNECTION WITH THE SOFTWARE WILL BE ACCURATE AND RELIABLE; OR (C) ALL DEFECTS IN THE OPERATION OR FUNCTIONALITY OF THE SOFTWARE WILL BE CORRECTED. ALL CONTENT OBTAINED THROUGH THE SOFTWARE IS OBTAINED AT CUSTOMER'S OWN DISCRETION AND RISK, AND CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S COMPUTER SYSTEM OR OTHER DEVICE, LOSS OF DATA, OR ANY OTHER DAMAGE OR INJURY THAT RESULTS FROM THE DOWNLOAD OR USE OF ANY SUCH CONTENT.

#### (c) **Indemnification.**

(i) Subject to the limitations specified in Section 4(a), Section 4(c)(iii) and Section 4(c)(iv) and only to the extent not subject to the Software Warranty, each Party (as applicable, the "**Indemnifying Party**") will defend, indemnify and hold harmless the other Party and its Representatives (collectively, the "**Indemnified Party**") from and against any and all Claims or Losses to the extent arising from or relating to the Indemnifying Party's: (A) material breach of these T&Cs; (B) gross negligence, recklessness, or willful misconduct in connection with performance under these T&Cs; (C) infringement of a third party's Intellectual Property rights arising from the grant of any Intellectual Property license to the Indemnified Party, provided that the Indemnified Party's usage of the Intellectual Property is on a fully authorized basis and as specified in these T&Cs; or (D) mandatory products liability obligations under Applicable Law. In furtherance of this Section 4(c)(i), an Indemnifying Party's obligations with respect to a Claim of alleged infringement of Intellectual Property applies solely to the extent that infringement, including of Software, is specifically pled in the relevant Claim by the third party.

(ii) **Indemnification Procedures.** Upon learning of any actual or threatened Claim or Loss subject to indemnification pursuant to

Section 4(c)(i), the Indemnified Party promptly shall provide Notice thereof to the Indemnifying Party (an "**Indemnification Notice**"). The Indemnifying Party, at its own expense, shall defend the Claim with counsel reasonably acceptable to the Indemnified Party. The Indemnified Party, at its own expense, may participate in such defense using counsel of its choice. If the Indemnifying Party fails or refuses, within thirty (30) days of receiving the Indemnification Notice, to commence or to adequately continue the defense of the Claim, the Indemnified Party may provide Notice to the Indemnifying Party of its assumption of the defense and right to unilaterally settle any Claim. Except to the extent an Indemnified Party has taken over the defense of a Claim, no settlement of any Claim may be made by either Party without the other Party's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(iii) **Consequential Loss.** IN NO EVENT WILL ANY PARTY OR ITS AFFILIATES OR REPRESENTATIVES BE LIABLE UNDER THESE T&CS (INCLUDING UNDER THIS SECTION AND THE SOFTWARE WARRANTY SET FORTH HEREIN) FOR ANY LOST REVENUE OR PROFIT, LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR COMPARABLE DAMAGES, HOWEVER CAUSED, NO MATTER THE EFFECTS ON THE PARTY OR ITS REPRESENTATIVES AND NO MATTER THE THEORY OF LIABILITY.

(iv) **Limits.** A Party's aggregate indemnification obligations (as specified in Section 4(c)(i)) and a Party's maximum liability to the other Party for any and all Losses or Claims arising from or in connection with or relating to the Subscriptions, Software or these T&Cs shall not exceed the lesser of (A) the aggregate Subscription Fees actually paid by Customer to Ford Pro in the twelve (12) calendar months prior to the event giving rise to the Loss or Claim or (B) \$250,000. By way of illustration, the Indemnifying Party's payment of \$250,000 in settlement of a Claim shall exhaust its indemnification obligations under these T&Cs.

#### 5. PARTY OBLIGATIONS AND AGREEMENTS.

(a) **Ford Pro's Obligations.** Ford Pro shall be principally responsible for: (i) provisioning and operating, maintaining, administering and supporting the Software and related infrastructure, including the Product Network in accordance with these T&Cs and Applicable Law; and (ii) protecting the confidentiality and security of PII under its exclusive control and obtained under these T&Cs, each in accordance with these T&Cs and Applicable Law.

(b) **Customer's Obligations.** Customer shall be solely responsible for: (i) maintaining Customer's Information, including by updating Customer's Fleet Account within five (5) business days of any change in the location of any of Customer's Hardware; (ii) obtaining all necessary Consents from Operators utilizing the Software for Ford Pro's collection of Data as specified in these T&Cs, and (iii) using the Software and Product Network, each in compliance with these T&Cs and Applicable Law, including by protecting access to related Hardware.

(c) **Additional Obligations of Customer & Operators.** Except as expressly authorized under these T&Cs or required by Applicable Law, Customer will not and will take reasonable commercial measures to ensure its Operators do not: (i) Transfer or Alter the Software, or disobey the Policies relating to the Software; (ii) attempt to gain unauthorized access to Software by or through any technology or means other than those provided or expressly authorized by Ford Pro; (iii) reverse engineer, decompile or otherwise attempt to extract the source code of or embedded within the Software; (iv) develop, advance or create derivative works from the Software, including derivative works that employ any of Ford Pro's Product Marks; (v) remove, conceal or cover any of the Product Marks within the Software; (vi) copy, frame or mirror any part of or all of the Software; (vii) access the Software for any competitive purpose or for any improper purpose whatsoever, including in order to build a competitive product or service or copy any features, functions, interface, graphics or "look and feel" of the Software; (viii) use any robot, spider, site search/retrieval application or other device to retrieve or index any portion of the Software for any unauthorized purpose; (ix) upload, transmit or introduce any malicious code to the Software; (x) use the Software or facilitate use of the Software by a Person barred from doing so under Applicable Law; and (xi) use the Software to upload, pose, display, transmit or otherwise make available (A) any inappropriate, defamatory, obscene or unlawful content; (B) any content that infringes any Intellectual Property right

of any Person; (C) any messages, communications or other content that constitutes disruptive commercial messages or advertisements.

(d) **Information Security.** At all times throughout the Term, each Party shall: (i) maintain its respective systems in accordance with industry security standards; (ii) encrypt application program interface parameters in transit (input and response) and encrypt all Data at rest; (iii) cooperate with the other Party to verify and test (including through penetration testing) the end-to-end security controls of their respective systems as applied to the Software; (iv) engage subcontractors under terms no less stringent as those agreed between Ford Pro and Customer, and be responsible at all times for the actions of such subcontractors; (v) monitor for, and appropriately protect against, security incidents; (vi) provide timely notification to the other Party of any security incident to enable appropriate and required remediation to be taken; (vii) treat security related information as Information subject to **Section 7(a)**; and (viii) maintain adequate security controls around credentials (including Fleet Login information) to prevent unauthorized use of, or access to, the Software and, as applicable, to prevent the linking of any Data with any other data to identify a Person, any group of related Persons or a static/persistent ID. Upon Ford Pro's request, Customer shall provide documentation to Ford that demonstrates end-to-end security control systems have been implemented, including any such additional security requirements as may be required by Applicable Law (e.g., PCI DSS, GDPR, in-vehicle cyber security requirements, etc.).

**6. INTELLECTUAL PROPERTY; DATA.** Ford Pro retains all right, title, and interest in and to all Intellectual Property (including the Software) and Data (other than certain Information and PII as set forth below) used in connection with the Software or the Subscriptions. Subject to these T&Cs, throughout the Term, Ford Pro hereby grants to Customer a fully paid-up, non-exclusive, non-transferable, revocable, time-limited license to such Intellectual Property and Data solely to the extent necessary for Customer to use the Software during the Term as specified in these T&Cs and the Subscription Services T&Cs. Certain Data may be provided under Intellectual Property licenses from third-parties and is subject to copyright or other Intellectual Property rights of such third parties. Customer may be held liable for any unauthorized copying or disclosure of such third-party-supplied Data. In furtherance of the foregoing and including as specified in the Subscription Services T&Cs, Ford Pro may collect certain Data from Customer in connection with the Software and Hardware, for which Ford Pro is the sole and exclusive owner, and Customer expressly consents to Ford Pro's collecting, Processing, disclosing and commercializing of such Data (other than certain Information and PII as set forth below) collected by the Software and Hardware for Ford Pro's Business. To the extent Ford Pro provides any such Data collected from Customer to Customer, Customer agrees that the Data is provided for planning purposes only, and that various conditions in which Customer's Software and Hardware operate may differ from what is provided or expected from such Data. Customer shall exercise reasonable judgment in Customer's use of any Data under these T&Cs. Customer further acknowledges that certain Data may contain PII, including PII gathered from the operation of certain EVs (including GPS and other connected interfaces). Prior to being transferred to customers, Data will be adapted to exclude PII. It is the sole responsibility of Customer to (a) notify any Operator that Data may be collected and of the type and nature of that Data, and (b) obtain all necessary consents for Ford Pro's collection and use, as described in these T&Cs of such Data as required by Applicable Law and these T&Cs, including, in each case, as applicable to any PII contained therein (collectively, "**Consents**"). Customer shall indemnify Ford Pro pursuant to the provisions of **Section 4(c)** and will hold harmless Ford Pro for any failure by Customer to obtain such necessary Consents. All ownership, right, title and interest in and to all Information regarding a Party and its Affiliates and PII shall be the sole and exclusive property of the Party providing or disclosing such Information or PII or, with respect to Information, to which the Information relates. Ford Pro may also create a de-identified set of the Data (which does not contain any Information or PII that could be used to determine that the Data is related to Customer) and use such Data set for Ford Pro's commercial purposes, and Customer consents to Ford Pro's collection, processing and retention of de-identified Data for Ford Pro's Business.

## 7. MISCELLANEOUS.

(a) **Confidentiality.** The Information regarding the other Party and its Affiliates (the "**Disclosing Party**") to which a Party (the "**Receiving Party**") may become privy during the Term of these T&Cs constitutes confidential

and proprietary information, the disclosure, copying, or distribution of which could result in competitive harm to the Disclosing Party. Ford Pro and Customer will each use reasonable care to maintain the other Party's Information in the strictest confidence and not to disclose, copy, or distribute the other Party's Information, whether orally or in writing, directly or indirectly, in whole or in part, except (i) to those of the Receiving Party's Representatives who need to have the Information in order to perform their obligations under these T&Cs (and agree in writing to be bound by confidentiality provisions comparable to those specified in this **Section 7(a)**) and (ii) as otherwise permitted by these T&Cs (including as specified in **Section 6**). Reasonable care in this respect is the standard of care that the Receiving Party would use in protecting the confidentiality of its own Information. The confidentiality obligations specified in this **Section 7(a)** will continue in effect for the Term of these T&Cs and for a period of four (4) years after the date on which these T&Cs expire or are earlier terminated by the Parties. Notwithstanding the foregoing, nothing in this **Section 7(a)** will apply to any information (including Information) (A) which is or becomes generally available to the public other than as a result of disclosure by a Receiving Party or its Representatives; (B) which was available on a non-confidential basis prior to its disclosure by the Disclosing Party or its Representatives; (C) which becomes available to a Receiving Party on a non-confidential basis from a source other than the Disclosing Party or its Representatives, provided that such source is not known, after reasonable inquiry, to be subject to any prohibition against transmitting the Information; or (D) which is disclosed pursuant to Applicable Law, provided that the Receiving Party will, to the extent permitted by Applicable Law, give the original Disclosing Party prompt Notice of such threatened disclosure and the right to defend against such disclosure, at Disclosing Party's expense, and provided further that the original Receiving Party will cooperate reasonably in such defense.

(b) **Privacy; PII.** These T&Cs include the Ford Pro Privacy Policy, as it may be amended from time to time, which such Policy is available at [www.fordpro.com/en-us/privacy](http://www.fordpro.com/en-us/privacy). Customer is subject to this Policy.

(c) **Cellular Carriers.** In order to deliver the Software, including linking Connectivity Points to the Product Network, Ford Pro has entered into or may enter into agreements with one or more Underlying Carriers, for which Customer is not a third-party beneficiary. Customer agrees that Ford Pro cannot guarantee the security of wireless transmissions or the Product Network, and Ford Pro is not and will not be liable to Customer for any lack of security relating to the use of an Underlying Carrier with respect to any part of the Fleet Account, any Subscription or any Software. To the extent Customer has entered into or may enter into agreements with one or more wireless service carriers, developers of the operating systems for any of Customer's devices or the operator of any application store, marketplace or similar service through which Customer obtains access to the Product Network (as applicable, "**Customer's Carriers**"), Customer and Ford Pro acknowledge that Customer's Carriers are not third-party beneficiaries of these T&Cs. Ford Pro will not in any way be bound by the terms and conditions of any agreement with Customer's Carriers, and Customer will be solely responsible with complying with the terms and conditions thereof.

(d) **Precedence of Subscription Services T&Cs.** In the event of a conflict between the Subscription Services T&Cs and these T&Cs, the Subscription Services T&Cs will control.

(e) **Modification.** No release, discharge, waiver or modification of any of the provisions of these T&Cs shall be binding upon a Party, nor will any statement, whether oral or in writing, by or on behalf of either Party serve as the basis of any representation or warranty of such Party, unless expressly agreed in writing by both Parties; provided, however, that notwithstanding the foregoing, Ford Pro may modify these T&Cs at any time as follows: (i) Ford Pro will alert Customer through its Fleet Account of any material changes to these T&Cs at least thirty (30) days prior to any such change becoming effective, and (ii) all other modifications will be effective immediately upon being posted to Company's Fleet Account, or at such later time as Ford Pro may specify in its sole discretion. Company's continued use of the Software shall serve as Company's acceptance of such modified terms. If Company does not agree to these T&Cs or any modification hereof that is made by Ford Pro in accordance with the immediately preceding sentence, Company must immediately stop using the Software and cancel its Fleet Account and any Subscription thereunder, and these T&Cs shall terminate on the day on which such modification becomes effective.



(f) **Force Majeure.** A Party's obligations under these T&Cs will be temporarily suspended during any period that the Party is unable to carry out such obligations under these T&Cs by reason of a Force Majeure Event, with any delayed performance of then-pending obligations under these T&Cs excused for so long as the Force Majeure Event continues. An impacted Party shall provide prompt Notice to the other Party, specifying the period that the Force Majeure Event is expected to continue. An impacted Party shall take reasonable commercial measures to mitigate the impacts of a Force Majeure Event, resuming performance of its obligations as soon as reasonably practicable after the removal of the cause thereof. In the event that the impacted Party's delayed performance continues for a period of ninety (90) consecutive days, either Party may terminate these T&Cs upon thirty (30) days' advance Notice.

(g) **Governing Law/Invalidity.** These T&Cs shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware without regard to rules of conflict of laws. If any provision of these T&Cs is declared unlawful or unenforceable by judicial determination or performance, the remainder of these T&Cs shall continue in force as if the invalidated provision did not exist.

(h) **Attributes.** Ownership, right, title and interest of Attributes arising in connection with or related to (i) the development, commercialization, marketing and offering of the Software shall be exclusively with Ford Pro, and (ii) the Customer's use and operation of the Software to which it subscribes shall be exclusively with Customer. To the extent that Attributes cannot be allocated to a Party using the foregoing criteria or there is a risk of double counting of Attributes, the Parties shall use commercially reasonable efforts to agree upon an appropriate allocation of those Attributes. No Party shall agree, indicate, report or otherwise communicate, directly or indirectly, to any third-party, including to any end user, that Attributes allocated under these T&Cs belong to any third-party.

(i) **No Agency/Partnership.** These T&Cs do not create, and shall not be construed as creating, any agency, partnership, joint venture or other employment relationship. Neither Party shall have any right, power, or authority to assume, create, or incur any expense, liability or obligation, express or implied, on behalf of the other Party, except as expressly provided herein.

(j) **Assignment.** These T&Cs may not be transferred or assigned by a Party without the prior written consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed), except that Ford Pro may assign these T&Cs to any of its Affiliates. Additionally, Customer may assign these T&Cs without Ford Pro's consent to any Affiliate of Customer or any successor to all or substantially all of Customer's assets (whether by a share or asset purchase or other transaction). No permitted assignment shall relieve a Party of its rights and obligations under these T&Cs prior to the effective date of assignment, and any unpermitted assignment shall be null and void.

(k) **Arbitration.** Disputes between the Parties arising out of or in connection with these T&Cs, upon Notice, shall be submitted to and finally settled by a single commercial arbitrator with substantial experience in the industry and in resolving complex commercial contract disputes. Arbitration shall be conducted in the State of Michigan, the State of Delaware or the State of New York, as determined by the Party initiating the dispute, in accordance with the then-applicable International Institute for Conflict Prevention and Resolution Rules for Administered Arbitration and the Michigan Uniform Arbitration Act, as amended M.C.L.A. § 691.1681 et seq., (which shall control in the case of conflict with the Rules). Notwithstanding the foregoing, the arbitrator shall have the power to rule on objections concerning jurisdiction, including the existence, validity or scope of this arbitration provision, these T&Cs and issues of arbitrability, but shall have no authority to appoint or retain expert witnesses for any purpose, unless agreed to by the Parties. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the arbitration award may be entered by any court having jurisdiction thereof. A Party also may apply to any such court, without waiving arbitration rights, for equitable relief or interim measures.

(l) **Survival.** The Parties' rights and obligations under **Section 2, Section 3(c), and Section 4 through Section 7** (inclusive) will survive termination or expiration of these T&Cs.

(m) **Entire Agreement; Counterparts.** These T&Cs constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior oral or written representations and agreements with regard to the same. These T&Cs confer no rights upon any third parties, including any of the Parties' Representatives or other Operators, except as expressly provided herein. Unless otherwise indicated to the contrary herein by the context or use thereof: (i) the words "herein," "hereto," "hereof" and words of similar import refer to these T&Cs as a whole and not to any particular section hereof; (ii) the word "including" and words of similar import mean "including without limitation" or "including, but not limited to;" (iii) any pronoun includes the corresponding masculine, feminine and neuter forms; (iv) words in the singular or the plural include the plural or the singular, as the case may be; and (v) headings are for convenience only and shall not affect interpretation. Where execution by "acceptance," as specified in the introductory paragraph hereof, is not permitted by Applicable Law, these T&Cs may be executed in one or more counterparts, each of which will be deemed an original. For purposes of these T&Cs, a facsimile, scanned, or electronic signature will be deemed an original signature.

(n) **Definitions.** Unless otherwise defined in these T&Cs, the following terms will have the meanings set forth below:

**"Affiliate"** of a Person shall mean an entity that directly, or indirectly through one or more intermediate entities, has ownership of or is owned by, or Controls or is Controlled by, that Person or is under common Control with that Person. For purposes of the foregoing, **"Control"** of a Person shall mean that an entity or group of Affiliate entities, directly or indirectly, owns or controls at least 25% of the voting stock, partnership interest or other ownership interest of that Person, whether through the ownership of voting securities or by contract or otherwise.

**"Alter"** means to change, interfere with or otherwise disrupt the normal and intended operation of any system, component or interface.

**"Applicable Law"** means any and all conventions, treaties, statutes, regulations and rules, as well as the judicial or administrative judgments, decisions, decrees, orders, injunctions or directives, demands, tariffs, embargoes, levies or comparable obligations of any Governmental Authority, which are in force or enacted on or after the Effective Date and are, in each case, legally binding as at the relevant time, whether civil, criminal or administrative.

**"Attributes"** means any vehicle, energy, fuel and emission characteristic, offset, credit, benefit, reduction, rebate, financial incentive, tax credit and other beneficial allowance, however titled, that is in effect or may come into effect during the Term under Applicable Law or otherwise become commercially available under voluntary arrangements (including informal or formal exchanges or markets). Attributes include any quantification of avoided emissions of pollutants or substances to the environment (such as avoided emissions of carbon monoxide, carbon dioxide, methane and other greenhouse gases), alternative vehicle credits, alternative or renewable fuel credits (such as the federal Renewable Identification Number and California Low-Carbon Fuel Standard), alternative or renewable electricity credits, Green-e products credits, manufacturing tax credits, investment tax credits, production tax credits, in each case as such credit is earned by or in connection with, or otherwise attributable to, the design, production, delivery, operation or use of the Software under these T&Cs.

**"Change of Control"** includes, with respect to Customer, the prospective: (i) sale, lease or exchange of a substantial portion of Customer's assets; (ii) sale or exchange of a controlling interest in the shares of Customer; or (iii) execution of a voting or other agreement of Control; provided, that Customer shall provide Ford Pro with Notice of a prospective Change of Control no fewer than ten (10) days prior to the date that the Change of Control will become effective, and Ford Pro will have thirty (30) days from the date on which the Notice from Customer is given within which to notify Customer of its decision to terminate these T&Cs and cancel all Subscriptions, as well as the effective date of such termination, which will be no sooner than ten (10) days after the date on which such Notice of termination is given.

**"Claim"** means a claim, allegation, action, cause of action, proceeding, demand, assertion, adjudication or suit made against or brought by a Person.

**"Connectivity Point"** means the internal system by which the Hardware accesses and relays Data to the TMC.

“**Cured**” means to correct or remedy a breach, provided that any Cure shall be completed in no more than thirty (30) days, except a non-payment breach which shall be paid in five (5) business days, or each otherwise shall be deemed uncured.

“**Customer**” means the entity purchasing one or more Subscriptions to use Software pursuant to these T&Cs, as specified in the Sales Order.

“**Data**” means data, recorded information or content, regardless of form or medium, that is derived from, generated by, captured in or transmitted through the Hardware or Software (including as a result of EV charging), and any transformation of the foregoing, including as provided for in the Subscription Services T&Cs.

“**Dispute**” means any disagreement over a Sales Order, an Invoice or these T&Cs, provided that any Invoice Dispute shall require Customer to pay all undisputed amounts and detail, in writing, to Ford Pro the basis for such Dispute in the timeframe provided in these T&Cs.

“**EV**” means an electric vehicle that can be charged using the Hardware.

“**Fleet Account**” means an account on the online portal accessed at [www.fcsfleet.ford.com](http://www.fcsfleet.ford.com) through which Customer links eligible Hardware in order to access the Software.

“**Force Majeure Event**” means: acts of God or the public enemy; natural catastrophes; acts of terrorism; fires or floods; strikes, lockouts or other industrial or labor disorders; civil commotion; unavailability of or restrictions on transportation; the actions or inactions by any Governmental Authority; pandemic or epidemic; inability to procure materials, labor or energy; industrial disturbances; or any other event, occurrence or circumstance beyond the reasonable control of the impacted Party. The term “Force Majeure Event” shall not include obligations regarding the payment of money.

“**Ford Pro**” means Ford Motor Company, a Delaware corporation, with or by its designated Affiliates. For the avoidance of doubt, any reference in these T&Cs to Ford Pro may mean the Ford Pro-designated Affiliate or Representative engaged to provide the Software or related services.

“**Ford Pro’s Business**” means Ford Pro’s and its Affiliates’ commercial purposes, including research, development and provision of existing or new products and services (including the Software), enhancement and optimization of products and services (including the Software), accident research or investigations, warranty and contract compliance, maintenance or diagnostics and conducting research or analyses of Data.

“**Governmental Authority**” means any domestic or foreign government and its divisions (whether national, federal, state, provincial, local or otherwise), court of competent jurisdiction, administrative agency, commission or other regulatory authority or quasi-regulatory authority acting under Applicable Law.

“**Hardware**” means EV charging stations purchased from Ford Pro.

“**Information**” means the nature and details of the business relationship established by these T&Cs, and the business and other information regarding the other Party and its Affiliates to which a Party may become privy during the Term.

“**Insolvency**” means, with respect to a Party, that such Party: (i) files a petition in bankruptcy, (ii) is adjudicated as bankrupt, (iii) makes a general assignment for the benefit of creditors, (iv) is subject to a receiver’s, a liquidator’s or an administrator’s appointment, or (v) any equivalent procedure to any of those listed in the preceding clauses; provided, that “Party” in this definition also refers to any direct Affiliate with Control over the Party.

“**Installation**” means a Hardware installation by a licensed electrician in accordance with Ford Pro’s written installation instructions.

“**Intellectual Property**” means all intellectual property and other similar proprietary rights in any jurisdiction worldwide, whether owned or held for use under license, whether registered or unregistered, including such rights in and to: (i) trademarks (including common law and registered trademarks), trade dress, service marks, certification marks, logos, slogans, trade names, brand names, corporate names, assumed names, business names and all other indicia of origin, including all registrations and applications of the foregoing and the goodwill associated with any of the foregoing (collectively, “**Product Marks**”); (ii) works of authorship and all other copyrightable works, including all copyrights, database rights, domain names and all registrations,

applications and extensions of the foregoing, which may include Software; (iii) trade secrets, invention disclosures, techniques, business and technical information, know-how and information; and (iv) inventions, ideas, discoveries, designs, drawings, developments, whether or not any of the foregoing are patentable, and any issued patents and pending patent applications, including any divisionals, continuations, continuations-in-part, reissues, continuing patent applications, reexaminations and extensions thereof, any counterparts claiming priority therefrom, utility models, patents of importation/confirmation, certificates of invention, certificates of registration and like rights.

“**Invoice**” means a request for payment, where a Subscription is not pre-paid, and will identify: (i) the number of active Connectivity Points, (ii) the number of Connectivity Points activated and deactivated during the Invoice period, and (iii) the Subscription Fee.

“**Loss**” means, in relation to any Person, a damage, loss, cost, expense or liability incurred by the Person (including reasonable attorneys’ fees), however arising and whether present or future, fixed or unascertained, actual or contingent.

“**Notice**” means any notice, claim, certificate, request, demand or other communication required or permitted under these T&Cs. Where no timeframe or specification for Notice is made, Notice is assumed to be thirty (30) days prior written, detailed Notice. Except where Notice by email is expressly permitted by these T&Cs, Notice will be deemed given when sent by (i) registered mail, return receipt requested, or (ii) a nationally recognized overnight delivery services (such as Federal Express), to the address listed in the Sales Order for the recipient Party, with a copy sent to each of the General Counsel and Corporate Secretary of the recipient Party at the same address (or such other address or designee as provided by Notice to the other Party).

“**Operators**” means all end users of the Software under these T&Cs, including Customer’s officers, directors, employees, agents, contractors and consultants who are designated by Customer to use the Software.

“**Person**” means an individual, corporation, partnership, firm, limited liability company, joint venture, trust, unincorporated organization, Governmental Authority, association, or any other legal entity.

“**PII**” means any Data or Information that when used separately or in combination with other information could identify an individual or is related to or about an identified or identifiable natural person who can be identified, located or contacted, directly or indirectly from the Data or Information that is provided to or obtained by Parties under these T&Cs.

“**Policies**” means the Ford Pro written policies and guides which have been provided or made available to Customer, including the Ford Pro Code of Conduct (available at <https://corporate.ford.com/operations/governance-and-policies/code-of-conduct.html>), the Ford Pro Privacy Policy (available at [www.fordpro.com/en-us/privacy](http://www.fordpro.com/en-us/privacy)) and the Ford Pro ESG Policy (available at <https://corporate.ford.com/microsites/integrated-sustainability-and-financial-report-2021/environment/index.html>), each of which policies shall be adapted or deemed adapted to be applicable to Customer’s Subscription and use of the Software.

“**Process**” means to collect, receive, input, upload, download, record, reproduce, store, organize, compile, combine, log, catalog, cross-reference, manage, maintain, copy, adapt, alter, translate or make derivative works or improvements, process, retrieve, output, consult, use, perform, display, disseminate, transmit, submit, post, transfer, disclose or otherwise provide or make available, or block, erase or destroy. “Processing” and “Processed” have correlative meanings.

“**Product Network**” means the open-platform network of Connectivity Points, including the TMC, that is operated and maintained by or on behalf of Ford Pro, and includes a web-hosted platform, dashboard and Connectivity Point control and certain reporting, analytics and ancillary energy services that Customer may access through its Fleet Account subject to these T&Cs.

“**Representative**” means a Person authorized by any contract, lease, license, indenture, agreement, commitment or other legally binding arrangement or under Applicable Law to act for or on behalf of another Person, including such Person’s Affiliates, directors, officers, employees, agents, subcontractors, outsourcers and suppliers.

“**Sales Order**” means a specific, binding, written order for a Subscription, provided that the Sales Order must be signed by the Parties, is subject to credit approval by Ford Pro and shall specify payment in U.S. dollars.

“**Software**” means the programs, procedures, routines, instructions and code used by or in connection with the operation of computers, as well as the related technical information, documentation and databases (including digital or cloud databases), currently available and solely related to Ford Pro’s EV charging stations. References to Software will include all Data produced or derived from such Software and the means of producing or deriving the same.

“**Subscription**” means Customer’s non-exclusive, non-transferable right to access and use the Software during the Term with respect to the Hardware specified in the applicable Sales Order.

“**Subscription Fee**” means the price specified in a Sales Order for a Subscription, which is not dependent on actual usage, and which will be exclusive of all Taxes, and any other similar Taxes, duties and charges of any kind imposed on any amounts payable by Customer. Customer will be responsible for all such Taxes.

“**Taxes**” means any governmental, state, local government or municipal tax, imposition, exaction, duty, charge or its equivalent under Applicable Law, including sales taxes, use taxes, goods and services taxes, value-added and excise taxes, income taxes, franchise taxes, gross receipts taxes, property taxes, and withholdings or liability wherever chargeable and whether in the United States or any other jurisdiction.

“**TMC**” means the transportation mobility cloud or comparable system that supports Customer’s access to its Fleet Account, Software via Subscription or other services made available to Customer by Ford Pro via a Sales Order. The TMC holds certain Data and Information, including as aggregated, anonymized, Processed or otherwise analyzed by Ford Pro from customers.

“**Transfer**” means to provide, disclose, distribute, sell, resell, license, rent, lease or otherwise provide to a third party.

“**Underlying Carrier**” means any wireless service carrier utilized by Ford Pro to support the Software and related infrastructure, including the Product Network.

“**Update**” means revisions, updates, upgrades, defect or “bug” fixes or corrections, modifications or replacements to the Software which Ford Pro, in its sole discretion, may make from time to time, and which will be designed to repair defects, flaws or errors in the functionality or operation of the Software.