

TERMS, CONDITIONS, & EXCLUSIONS

These Terms, Conditions, & Exclusions apply to any and all present, and future services NextGen Electric, LLC (*NextGen*) performs for the party agreeing to these Terms, Conditions, & Exclusions (which party is hereinafter referred to as *Client*) unless these Terms, Conditions, & Exclusions are specifically altered, changed, amended, or disregarded by a subsequent written and signed agreement.

Unless otherwise agreed to in writing, **CLIENT AGREES THAT HE/SHE/IT IS BOUND BY THESE TERMS, CONDITIONS, & EXCLUSIONS BY ACCEPTING THE BID (BID) PROVIDED TO CLIENT BY NEXTGEN.** Client agrees that this document is valid and binding without a separate signature.

1. **SCOPE OF SERVICE.** Each Client shall receive a Bid which will include a brief description of the work that is to be done, the rate or amount that will be charged and any applicable tax. Prior to NextGen performing any services or acquiring any supplies and/or products for Client, Client must pay the starting deposit referenced in Paragraph 3 below. NextGen has no obligation to begin any work until it has received the deposit and an accepted and signed Bid.

Any extra work not described on the Bid, but which is performed in association with the work specified on the Bid, shall be billed in addition to the amounts shown on the Bid at NextGen's usual and standard rates. Any ambiguity as to whether or not a service or product is included in the Bid shall be resolved as though it were not included in the Bid.
2. **TIMING OF SERVICE.** Unless otherwise agreed to in writing, NextGen will perform all work in three phases: 1) Rough-in, 2) Trim, and 3) Final. It is Client's sole responsibility and obligation to let NextGen know when Client is ready for each phase. **If Client notifies NextGen, orally or in writing, that Client is ready for any particular phase and NextGen determines, in its sole discretion, that Client is not ready for the that phase of work, Client shall owe NextGen an extra service fee of \$250 payable with the next invoice.**
3. **PAYMENTS.** Unless otherwise noted in writing by NextGen, Client agrees to pay NextGen all amounts outstanding as follows:
 - a. For Solar Installation Projects:

First Payment ("Starting Deposit")- **a Starting Deposit of 60% of the total** amount shown on the Bid upon acceptance of the Bid.

Final Payment ("Final Payment")- **a Final Payment of all remaining amounts** due upon substantial completion of the work contemplated in the scope of service.
 - b. For all other Projects:

First Payment- a **starting deposit of 25% of the total** amount shown on the Bid upon acceptance of the Bid.

Second Payment ("Rough-in Payment")- Client further agrees to pay NextGen an additional payment equal to **33% of the total amount shown on the Bid plus full payment for all other amount billed to date upon completion of the Rough-in phase.**

Third Payment ("Trim Payment")- Client will pay NextGen an additional **25% of the total amount shown on the Bid plus full payment for all amount billed to date upon completion of the Trim phase.**

Fourth Payment ("Final Payment")- Client will pay **all remaining amounts** due upon substantial completion of the Final phase.

NextGen will complete all work within the Scope of Service within a commercially reasonable time after being notified by Client that the project is ready for each particular phase.

Failure to make any payment listed above in subsections a or b shall result in immediate cessation of work, which cessation will not be considered a breach of this agreement.

4. COSTS AND FEES NOT INCLUDED IN BID.

Unless expressly stated otherwise in the bid, in addition to the amounts cited in the Bid, Client is responsible for the following actual costs:

a. All Permits & Fees. Client shall pay for all permits and fees. Even if NextGen provides a line item amount in the Bid for permits and/or fees, if the actual amount is different than what is shown on the Bid, then Client shall owe NextGen the actual amount paid by NextGen.

Such permits and fees include, but are not limited to: municipal or governmental taxes, use fees, impact fees,, inspection or testing fees, and/or utility fees.

b. Site Improvements & Condition Mitigation Costs. Site improvements and conditions that may require mitigation (which are not included in the Bid) include, but are not limited to, snow removal, rocky, poor, or difficult soil conditions, frozen soil conditions, site preparation, gravel placement, and other similar circumstances. Such items are excluded from the Bid even if NextGen is aware that such conditions exist prior to preparing the Bid.

c. Off-site Improvements. All off-site improvements required or requested for any project are not included in the bid.

d. Trenching. NextGen does not include any trenching work in its Bids. All trenching shall be considered to be outside the scope of NextGen's services and billed at NextGen's usual and standard rates.

e. Fixtures. Client agrees to pay for all fixtures. NextGen does not include any fixtures in its Bids.

5. CHANGE ORDERS. Any changes to the plans or the scope of service will result in additional charges and fees in addition to those enumerated in the bid pursuant to Paragraph 1 above.

6. INVOICES & STATEMENTS. Each statement or bill will be payable upon receipt of the invoice. The

statements or bills will include the amount, rate, basis of calculation, or other method of determination of the fees and costs, which costs shall be clearly identified by item and amount. If Client fails to pay NextGen within 15 days from the date of the final bill, in addition to any other rights and remedies of NextGen, the unpaid amount will accrue interest at the rate of 2% per month or the highest amount allowed by law, whichever is less.

7. REFUNDS. Client will not be entitled to any refund of any moneys paid, including deposits, whether or not any work has been performed. Notwithstanding the foregoing, NextGen may, in its sole discretion and in an offer of goodwill, return some or all of any deposit or payment to Client. However, any such action shall not be deemed to be a waiver of NextGen's right to refuse to issue a refund in any other matter or circumstance.

8. CLIENT RESPONSIBILITIES. Client shall assist NextGen, when necessary, in obtaining construction permits and licenses. Additionally, Client is exclusively responsible for any and all damages and shall indemnify NextGen against any and all damages or claims (including attorney's fees) related to or arising from the following:

a. Restrictive Covenants (CCR's) & Owner Association Compliance. Client is solely and exclusively responsible for ensuring that any all work performed by NextGen complies with all CCR's, zoning restriction, or other conditions or constraints impacting or impacted by work performed by NextGen.

b. Dig Laws. The law requires NextGen to call a locate service prior to digging. However, utility companies are only required to provide a minimum service available for free of charge. Often, only known utilities are marked or utilities running directly to and from the nearest meter are marked. Many property owners have several additional utility lines which may not get marked, including but not limited to power lines, sprinkler lines, telecommunication wires, drainage pipes, invisible fencing, conduits, and gas lines. Client is solely liable for identifying and locating all such utilities and items not located by a standard locate service. Client hereby releases and indemnifies NextGen

from any and all liability for damage, destruction, or injury caused to or by any buried utility.

c. **Property Boundaries & Easements.** Client is exclusively responsible for accurate location and identification of any and all property lines or boundaries, including easements, which may impact placement and construction of all work performed by NextGen. In the event that any work is anticipated to be performed close to any property line, setback, or if the property boundaries and corner pins are unknown, Client is strongly encouraged to obtain a survey.

d. **Potentially Hazardous Material.** Client is exclusively responsible for the discovery or existence of potentially hazardous material in improvements or on the site, such as the presence of urea formaldehyde foam insulation, asbestos, radon gas, buried petroleum tanks, toxic water, or any other potentially hazardous material, substance, or circumstance. NextGen is not qualified to detect such substances and it urges Client to retain a qualified expert if Client desires.

9. WAIVER OF WARRANTY. Client hereby waives all warranties, whether express or implied, including the warranty of workmanlike quality. Any such warranties are hereby waived and disclaimed by Client.

10. LIMITATION ON DAMAGES. NextGen's sole liability whether in contract, in tort, under any warranty, in negligence or otherwise shall not exceed the starting deposit or \$500, whichever is greater. Under no circumstance shall NextGen be liable for special, indirect, consequential, or punitive damages and Client hereby waives his/her/its right to make or bring any claim for the aforementioned damages. Client hereby releases NextGen from any liability for any aforementioned damages. The fee arrangement charged by NextGen or set by Client and NextGen for the products and services provided hereunder is a consideration in limiting NextGen's liability.

THIS PROVISION CONTEMPLATES IMPORTANT RIGHTS. CLIENT ACKNOWLEDGES THAT HE/SHE/IT HAS READ, UNDERSTOOD, AND AGREES TO THIS PROVISION.

11. NOTICE TO OWNER. Client represents and warrants that it has received and reviewed a copy of the "NOTICE TO OWNER" addendum applicable for the state in which the work contemplated by this agreement is to be completed.

12. REPRESENTATIONS. Other than what is provided in these Terms, Conditions, & Exclusions, NextGen makes no representations (and to the extent that any representations were or are made by NextGen, Client hereby waives any right to rely on said representations and releases NextGen from performance under any such representation) about the condition, fitness, warranty, use, cost, and timeliness of work or the products supplied or performed by NextGen.

13. ENTIRE AGREEMENT. These Terms, Conditions, & Exclusions in conjunction with any written Bid contain the entire agreement of the parties. No other agreement, statement, or promise made on or before the date of receipt of these Terms, Conditions, & Exclusions will be binding on the parties, unless such is in writing signed by Client and NextGen.

14. MODIFICATION BY SUBSEQUENT AGREEMENT. These Terms, Conditions, & Exclusions may only be modified by subsequent agreement of the parties in writing, including text messages and emails.

15. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY. If any provision of these Terms, Conditions, & Exclusions is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Terms, Conditions, & Exclusions will be severable and remain in effect.

16. NO WAIVER. No provision of these Terms, Conditions, & Exclusions or of any other Agreement may be waived by NextGen except in a signed writing. Failure by NextGen to enforce any provision of this Agreement shall not constitute a waiver of such provision. Any waiver by NextGen shall not operate as, or be construed to be, a waiver of any subsequent breach.

17. DISPUTE RESOLUTION. All disputes, excepting those brought by NextGen for the recovery of

payment, shall be resolved by binding arbitration in accordance with rules of the American Arbitration Association. As a condition precedent to any arbitration, the parties are required to have at least 4 hours of mediation. NextGen shall not be required to mediate any dispute for the recover of payment against Clie.

18. CHOICE OF LAW & JURISDICTION. Client hereby agrees to exclusive venue and jurisdiction in the State of Idaho, County of Kootenai for any and all disputes arising between Client and NextGen.

19. INTERPRETATION. This Agreement has been reviewed and approved by each of the Parties. In the event it should be determined that any provision of this Agreement is uncertain or ambiguous, the language in all parts of this Agreement shall be in all

cases construed as a whole according to its fair meaning and not strictly construed for or against any Party.

20. ATTORNEY'S FEES. In the event that either party is required to file a court action or consult with legal counsel in seeking to enforce the terms of any agreement between the parties, including these Terms, Conditions, & Exclusions or any subsequent written agreement, only NextGen shall be due its actual attorney's fees and costs it incurs in doing so, including costs and fees for arbitration, mediation, and/or appeals.

CLIENT HAS READ AND REVIEWED ALL OF THE FOREGOING TERMS, CONDITIONS, & EXCLUSIONS AND CLIENT ACCEPTS ALL TERMS, CONDITIONS, & EXCLUSIONS.