

TERMS AND CONDITIONS OF SALE

Electron Energy LLC (aka Electron Energy Corporation, or EEC) – Terms & Conditions of Sale

These Terms and Conditions of Sale (the “Terms of Sale”) apply to the sale of the products (the “Products”) identified in the accompanying EEC invoice or quote (together with these Terms of Sale, sometimes referred to as this “Agreement”) by Electron Energy Corporation (“EEC”) to the purchaser of the Products (“Buyer”). References to “Parties” in these Terms of Sale refer to EEC and Buyer collectively and references to “Party” are to either EEC or Buyer individually.

Buyer consents to receiving electronic records, which may be provided by EEC’s website, e-mail, or email attachments. Buyer may issue a purchase order for administrative purposes only. Buyer accepts these Terms of Sale by making a purchase from or placing an order with EEC. Any Buyer purchase order, acknowledgement, or other document will be referred to in these Terms of Sale as a “Purchase Request.” EEC objects to and expressly rejects any terms that are set forth in any Purchase Request that are in addition to or different from this Agreement. Such additional or different terms will not operate as a rejection of this Agreement, unless such variances are in the terms of the description, quantity, or price of the goods or services, and will be deemed an attempt to materially alter this Agreement. Any such additional or different terms are hereby rejected and these Terms of Sale, specifically, and this Agreement as a whole, will be deemed accepted by Buyer as stated here and in EEC invoice or quote, without such additional or different terms. If these Terms of Sale are provided in response to Buyer’s Purchase Request, such Purchase Request is deemed a request for quotation only, and the quote accompanying these Terms of Sale is an offer to sell the Products described in the Purchase Request subject to these Terms of Sale. Acceptance of any Products thereafter is acceptance of this Agreement, including these Terms of Sale as stated here. EEC may reject any Purchase Request in its sole discretion. If EEC accepts a Purchase Request, it will be considered an Order subject to this Agreement, including these Terms of Sale.

This Agreement contains the entire understanding of the Parties with respect to the matters contained in EEC’s invoice, quote, and/or these Terms of Sale and supersedes and replaces in its entirety any and all prior communications and contemporaneous agreements and understandings, whether oral, written, electronic, or implied, if any, between the Parties with respect to the subject matter of this Agreement. This Agreement may be amended, modified, or superseded only by means of a written agreement executed by an authorized representative of each Party.

1. Price

All prices are quoted and all Orders are accepted exclusive of federal, state, or local excise, sales, use, value-added tax, or similar taxes, or any export or import fees, customs duties, and similar charges applicable to the sale or to the Products sold, except taxes based upon EEC’s net income (“Taxes”).

Prices for the Products will be EEC’s then-current list prices (in U.S. Dollars). Buyer agrees to pay any and all Taxes and other charges incidental to the purchase or sale of the Products, which may be separately stated on EEC’s invoice, unless Buyer indicates that any ordered Products are tax-exempt in its order and provides EEC with a properly executed tax exemption certificate prior to shipment, provided that none of the foregoing relieves Buyer of its obligation to pay all Taxes.

2. Payment

For sales based on EEC’s credit: All sales will be subject to credit approval by EEC. Payment will be made in U.S. Dollars in accordance with EEC’s instructions (including wire transfer instructions) and is due and

payable thirty (30) days after the date of invoice. Each shipment (including partial shipments) will be separately invoiced and paid for when due without regard to other shipments. Without limiting other remedies, EEC reserves the right to charge a late fee on all past due payments equivalent to one and a half percent (1.5%) per month on the unpaid balance or the highest rate allowed by law, whichever is less. Buyer will pay for all collection costs, attorneys' fees, and court costs incurred in the collection of past due amounts. EEC reserves the right (in its sole discretion): to demand payment in advance of shipment (including partial advance payment for large orders); to request bank guarantees; or to terminate or modify the terms of credit payments. Buyer hereby grants to EEC a first priority, purchase money security interest in the Products and all proceeds or receivables arising from the sale, lease, or other disposition of such Products. At EEC's request, Buyer will promptly execute and deliver any documents that EEC deems advisable to perfect the security interest under this Agreement and maintain the first priority of such security interest. Buyer hereby authorizes EEC to sign and file any such document.

3. Delivery and Acceptance

EEC will use its discretion to set the delivery date, fill Orders, and determine the order in which Orders are filled. EEC will use commercially reasonable efforts to meet the delivery date set forth on EEC's Order acknowledgment on the condition that Buyer provides all necessary order and shipping information sufficiently in advance of such delivery date. Delivery dates are approximate. Delivery of each Order is subject to availability of the Products. EEC may deliver partial shipments. Delay in delivery of any installment will not relieve Buyer of its obligation to accept the remaining shipments. All Products delivered to Buyer will be deemed to be irrevocably accepted upon receipt. Because of uncertainties regarding manufacturing processes and raw materials, with some Orders, actual number of units delivered under the EEC invoice may vary (+ / -) by a percentage stated in the EEC invoice. Delivery by EEC of any number of units within such variance will be deemed fulfillment of the EEC invoice and Buyer will pay for the actual number of units delivered.

4. Title and Risk of Loss

Unless otherwise agreed in writing by EEC, all Products will be delivered Ex-Works (EXW – as defined by International Chamber of Commerce Terms, 2000) EEC's or its manufacturer's facilities. Title to and risk of loss of the Products will pass to Buyer upon delivery to the carrier. Buyer will reimburse EEC for all freight and insurance charges paid by EEC.

5. Cancellations and Rescheduling

Buyer will have the right to reschedule any Product shipment, as specified in an Order accepted by EEC, for up to sixty (60) days after the originally-scheduled delivery date as specified in such accepted Order, provided that written notice of such request to reschedule (which notice includes the revised shipment date) is received by EEC at least forty-five (45) days prior to the originally scheduled shipment date and Buyer will pay for any costs incurred by EEC for storage of such Products. No Order accepted by EEC may be canceled by Buyer without EEC's written consent. Canceled Orders will be subject to a reasonable cancellation charge not less than twenty-five percent (25%) of the total Order amount.

6. Intellectual Property

6.1 Ownership; Licenses. Except as otherwise expressly granted in this Agreement, Buyer and EEC agree that no intellectual property rights are transferred or licensed under this Agreement or in connection with the sale or provision of any Products. EEC and its licensors retain all intellectual property rights, title, and interest in and to all of its intellectual property, including (a) service marks, trademarks, trade names, logos, trade dress, packaging, or any other designations or identifications; and (b) copyrights, patent rights, trade secrets, and other proprietary rights related to the Products including without limitation, all

specifications, know-how, drawings, plans, tooling, and technical data, in each case owned, proprietary to or licensed by EEC, including without limitation the Software and Documentation (collectively, the "EEC IP"). Except as expressly set forth in this Agreement or in other written agreements between the Parties, Buyer obtains no license under the EEC IP or any rights to use or display, or make any representations regarding, any of the EEC IP. Buyer will not disparage or infringe upon any of the EEC IP. Buyer has no rights to sublicense or otherwise transfer any rights to the EEC IP to third parties. Buyer will indemnify, defend, and hold EEC harmless against any and all expenses, damages, costs, judgments, fines, or losses arising in connection with any claims, suits, or proceedings brought for (i) infringement of the EEC IP occurring in connection with Buyer's use of the Products, or (ii) unfair competition or other claims against EEC arising from EEC's compliance with Buyer's designs, specifications, or instructions. Buyer will not disassemble, decompile, copy or otherwise alter, modify, or reverse engineer any Products or any component or packaging of any Products, or disable, circumvent or interfere with any security devices or codes incorporated in the Products or in any component or packaging of any Products. Buyer grants EEC a worldwide, irrevocable, perpetual, transferable, royalty-free right to use, sublicense, distribute, and modify any feedback (including information, suggestions, ideas, or comments) provided by Buyer to EEC.

6.2 Software. Certain Products provided by EEC to Buyer may contain or require software (the "Software") and technical documentation used to describe, maintain, and use the Products (the "Documentation"). The Software and the Documentation are licensed, not sold. To the extent that any Products contain or include Software not governed by a separate license agreement, subject to the terms and conditions of this Agreement, EEC hereby grants to Buyer a non-exclusive, non-transferable, non-sublicensable, revocable, limited right and license to (a) use and perform the Software for internal business purposes only, solely in executable code form and solely as necessary to operate the Products, and (b) reproduce a limited number of copies of the Documentation for internal use in conjunction with the Products.

6.3 Software Restrictions. Buyer will not (a) reproduce the Software; (b) modify, incorporate into or with other software, or create a derivative work of any part of the Software or Documentation; (c) reverse engineer the Products or recompile, disassemble, or otherwise attempt to derive the source code of the Software; (d) distribute, sublicense, lease, rent, loan, or otherwise transfer the Software, or the Documentation to any third party; or (e) remove from the Software or alter any of the trademarks, trade names, logos, patent, or copyright notices or other markings on the Product or the Documentation.

7. Warranty

7.1 Limited Warranty. EEC will use reasonable efforts to pass on and assign to Buyer the manufacturers' warranties, if any, provided by suppliers with respect to all Standard Distribution Products. With respect to all EEC-manufactured Products, EEC warrants to Buyer (and no one else) that all Products to be delivered under this Agreement will substantially conform to EEC's applicable published specifications (the "Warranty") for a period of thirty (30) days after the date of shipment (the "Warranty Period"). To the extent available at no additional cost in the ordinary course from EEC's suppliers, EEC will deliver a certificate of conformance with its Products. EEC undertakes no obligation to test its Products or provide its own certificate of conformance.

7.2 Remedies for Breach of Warranty. EEC's sole and exclusive obligation, and Buyer's sole and exclusive remedy, for breach of the Warranty will be, at EEC's option, to (a) use commercially reasonable efforts to repair the non-conforming Product; or (b) replace the non-conforming Product at no additional charge. Buyer must notify EEC of any Products that do not conform to the Warranty during the Warranty Period. Buyer must return non-conforming Products to EEC in accordance with EEC's then-current Return Material

Authorization procedures. Replacement Products may be refurbished. Buyer will pay for all transportation charges on any Products returned from Buyer to EEC. The Warranty, and any supplier's warranty, will be void if (a) the Products fail or malfunction as a result of improper handling, installation, maintenance, removal, modification, or repair; or (b) the Products or Software are damaged after shipment, or subjected to abuse, abnormal physical or electrical stress, or improper use.

7.3 Disclaimer of Warranties. THE WARRANTY AND ANY SUPPLIER WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, QUIET ENJOYMENT, AND ACCURACY AND ANY WARRANTIES ARISING FROM THE COURSE OF CONDUCT OR USAGE OF TRADE. EEC DOES NOT WARRANT THAT THE OPERATION OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE. BUYER ACKNOWLEDGES THAT REAL-WORLD PERFORMANCE OF THE PRODUCTS MAY VARY DEPENDING ON BUYER'S DEPLOYMENT, PARTICULARLY IN ANY EXTREME CONDITIONS.

7.4 No Support. EEC will not be obligated to provide any support or maintenance for the Product unless otherwise mutually agreed by the Parties in writing.

8. Limitation of Liability

IN NO EVENT WILL EEC OR ITS SUPPLIERS BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, EVEN IF EEC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING ANY LOSS OF REVENUE, LOSS OF CUSTOMERS OR CLIENTS, LOSS OF GOODWILL, OR LOSS OF PROFITS, ARISING OUT OF OR IN RELATION TO THIS AGREEMENT, WHETHER ARISING UNDER CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY. IN NO EVENT WILL EEC'S TOTAL, CUMULATIVE LIABILITY UNDER THIS AGREEMENT EXCEED THE PURCHASE PRICE FOR THE PRODUCTS GIVING RISE TO THE CLAIM. MULTIPLE CLAIMS WILL NOT ENLARGE THIS LIMIT. THIS LIMITATION OF LIABILITY WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY IN THIS AGREEMENT.

9. Confidential Information

In addition to and notwithstanding the terms and conditions of any confidentiality or non-disclosure agreement entered into by the Parties or their respective affiliates, Buyer hereto agrees that the use and disclosure of Confidential Information hereunder shall be subject to the terms and conditions of this Section 9.

9.1 Confidential Information. For purposes of this Agreement, "Confidential Information" means all non-public, confidential or proprietary information disclosed or exchanged in connection with this Agreement or the Products by EEC or its affiliates, employees, officers, directors, partners, shareholders, agents, attorneys, accountants or advisors (collectively, "Representatives") to Buyer, Buyer's affiliates, or such affiliates' Representatives, whether before or after the acceptance of any Order by EEC hereunder. Confidential Information may include, without limitation (a) all information concerning the past, present and future business affairs of EEC and its affiliates and of its customers, suppliers and other third parties, including, without limitation, finances, customer information, supplier information, products, services, organizational structure and internal practices, forecasts, sales and other financial results, records and budgets, and business, marketing, development, sales and other commercial strategies; (b) unpatented inventions, ideas, methods and discoveries, trade secrets, know-how, unpublished patent applications and other confidential intellectual property; (c) designs, specifications, documentation, components,

source code, object code, images, icons, audiovisual components and objects, schematics, drawings, protocols, processes, and other visual depictions, in whole or in part, of any of the foregoing; (d) any third-party confidential information included with, or incorporated in, any information provided by EEC to Buyer or its Representatives; and (e) that portion of all notes, analyses, compilations, reports, forecasts, studies, samples, data, statistics, summaries, interpretations and other materials (collectively, the “Notes”) prepared by or for Buyer or its Representatives that contain, are based on, or otherwise reflect or are derived from, in whole or in part, any of the foregoing. Confidential Information shall also include the terms, conditions or other arrangements that are being discussed or negotiated in relation to the Confidential Information or this Agreement.

9.2 General Obligations. Buyer shall (a) protect and safeguard the confidentiality of all such Confidential Information with at least the same degree of care as Buyer would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (b) not use EEC’s Confidential Information, or permit it to be accessed or used, for any purpose other than for the purpose of the commercial transactions contemplated by this Agreement; (c) not disclose any such Confidential Information to any person or entity, except to Buyer’s Representatives who need to know the Confidential Information to assist Buyer, or act on its behalf, in relation to this Agreement, are informed by Buyer of the confidential nature of the Confidential Information and are subject to confidentiality duties or obligations to Buyer that are no less restrictive than the terms and conditions of this Agreement; and (d) be responsible for any breach of this Agreement caused by any of its Representatives.

9.3 Required Disclosure. Any disclosure by Buyer or its Representatives of any of EEC’s Confidential Information under applicable federal, state or local law, regulation or a valid order issued by a court or governmental agency of competent jurisdiction (each, a “Legal Order”) shall be subject to the terms of this Section 9.4. Before making any such disclosure, Buyer shall make commercially reasonable efforts to provide EEC with (a) to the extent legally permitted, prompt written notice of such Legal Order so that EEC may seek a protective order or other remedy; and (b) reasonable assistance in opposing such disclosure or seeking a protective order or other limitations on disclosure. Buyer (or its Representatives or other persons to whom such Legal Order is directed) shall disclose no more than that portion of the Confidential Information which such Legal Order specifically requires Buyer to disclose.

9.4 Return or Destruction of Confidential Information. At any time during or after the term of this Agreement, at EEC’s written request, Buyer and its Representatives shall promptly return to the Disclosing Party all copies, whether in written, electronic or other form or media, of EEC’s Confidential Information, or destroy all such copies and certify in a signed writing to EEC that such Confidential Information has been destroyed. In addition, Buyer shall also destroy all copies of any Notes created by Buyer or its Representatives and certify in a signed writing to EEC that such copies have been destroyed. Notwithstanding the foregoing, Buyer and its Representatives may retain one copy of any Confidential Information to the extent required to defend or maintain any litigation relating to this Agreement or the Confidential Information, or to comply with established document retention policies; provided, however, that Buyer and its Representatives shall continue to be bound by the terms and conditions of this Agreement with respect to such retained Confidential Information for as long as Buyer retains such Confidential Information.

9.5 No Transfer of Rights, Title or Interest. EEC hereby retains its entire right, title and interest, including all intellectual property rights, in and to all of its Confidential Information. Any disclosure of such Confidential Information hereunder shall not be construed as an assignment, grant, option, license or other transfer of any such right, title or interest whatsoever to Buyer or any of its Representatives except

as provided under separate written agreement between the Parties. Without limiting the generality of the foregoing, any designs, quotations, specifications, drawings, marketing plans, reports, and photographs related to the Products, their functionality, or their availability, other than that which is lawfully made available to the public by EEC, is EEC's Confidential Information and may not to be disclosed to any third party or used for any purpose without EEC's prior written approval. Such information will remain the sole property of EEC and upon request will be promptly returned to EEC. Buyer will not make nor issue (nor cause third parties to do any of the same) any press release or publicity associated with this Agreement without the express prior written permission of EEC.

10. Tooling

Unless otherwise agreed between EEC and Buyer in writing, all tooling that is used to produce any Products, regardless of whether Buyer pays for such tooling, will be and remain the sole property of EEC and to the extent applicable is EEC IP. Any non-recurring engineering (NRE) charges invoiced by EEC will not be deemed to grant to Buyer any right, title, or interest in any tools, dies, jigs, fixtures, or items of like nature, or in any design engineering, trade secret, patent, or other intellectual property or proprietary rights embodied in the tooling and such items will at all times be and remain the sole property of EEC.

11. Set-off

Buyer will not be entitled to set-off any amount due to Buyer against any amount due to EEC in connection with this Agreement.

12. Force Majeure

Each Party will be excused from performance of its obligations under this Agreement (other than payment obligations) if such Party is unable to perform such obligations due to any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, terrorism, changes in government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, floods, power outages, unusually severe weather conditions, and supply or transportation failures, delays, or interruptions.

13. Cooperation.

Buyer will cooperate with EEC in connection with EEC's performance under this Agreement including providing timely responses to EEC's inquiries and requests for information. Buyer acknowledges and agrees that EEC's performance under this Agreement is dependent upon the completeness and accuracy of information provided by Buyer.

14. Governing Law; Jurisdiction and Venue

This Agreement and any issues arising from or relating to the transactions under this Agreement will be governed by the laws of the Commonwealth of Pennsylvania without regard to principles of law that would require the application of the laws of a different jurisdiction. The Parties agree to the exclusive jurisdiction of the courts located in Lancaster County in the Commonwealth of Pennsylvania for any action or proceeding arising from or relating to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods will not govern this Agreement and is hereby disclaimed by the Parties.

15. Export Controls and Related Regulations

15.1 Compliance with Export Control Laws. Buyer will comply with all applicable export and reexport control laws and regulations, including the Export Administration Regulations, 15 CFR 730, *et. seq.* ("EAR") maintained by the U.S. Department of Commerce, the International Traffic in Arms Regulations, 22 CFR, Chapter I, Subchapter M, Parts 120, *et seq.* ("ITAR"), maintained by the U.S Department of State, and the

regulations administered by the U.S. Treasury Department Office of Foreign Assets Control ("OFAC"). Without limitation to the foregoing, Buyer agrees that it will not, directly or indirectly, sell, export, re-export, transfer, divert, or otherwise dispose of any Products or technology (including products or services derived from or based on such technology) received from EEC under this Agreement to any country, including but not necessarily limited to Cuba, Iran, North Korea, Sudan and Syria (or national or entity thereof) subject to export licensing requirements, antiterrorism controls, or U.S. embargo, or to any other person, entity, or destination prohibited by the laws or regulations of the U.S., or to any end user who Buyer know or has reason to know will utilize them in the design, development, or production of nuclear, chemical, or biological weapons, or rocket systems, space launch vehicles and sounding rockets, or unmanned air vehicle systems without obtaining, at Buyer's expense, prior authorization from the competent government and regulatory authorities as required by those laws and regulations. Buyer is responsible for obtaining and paying for all applicable import licenses, taxes, and duties.

Upon EEC's request, Buyer will provide EEC with sufficient documentation and information to demonstrate that Buyer has complied and is in current compliance with this Section 15.1.

15.2 Restricted Parties Lists. Buyer represents and warrants that it is not designated on, or associated with, any party designated on any of the U.S. government restricted parties lists, including without limitation, OFAC's List of Blocked Persons and Specially Designated Nationals; the U.S. Commerce Department Bureau of Industry and Security ("BIS") Denied Persons List, Entity List or Unverified List; or the U.S. State Department Directorate of Defense Trade Controls ("DDTC") Debarred Parties List.

15.3 Indemnification. Buyer will indemnify, defend, and hold harmless to the fullest extent permitted by law, EEC from and against any fines or penalties that may arise as a result of Buyer's breach of this Section 15.

16. General

If any provision of this Agreement is held invalid, unenforceable, or void in any respect, such provision will be construed so as to render it enforceable and effective to the maximum extent possible, and the validity and enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired by the same. Buyer agrees to adhere to all legal requirements applicable to the Products, including U.S. export laws. The Parties are independent contractors and nothing in this Agreement will be construed to imply a partnership, joint venture, principal-agent, or employer-employee relationship between the Parties. Neither Party will have the right, power, or authority to create any obligation, expressed or implied, on behalf of the other Party. Buyer may not assign, by operation of law or otherwise, any of its rights, or delegate any of its duties, under this Agreement to any third party without EEC's prior written consent. Any assignment, delegation, or transfer in violation of the foregoing will be null and void. This Agreement constitutes the entire agreement between the Parties as to the subject matter of this Agreement and supersedes and merges all prior or contemporaneous oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter of this Agreement.