

## **General Terms and Conditions for the Sale of Goods**

### **1. Applicability.**

(a) These terms and conditions of sale (these “**Terms**”) are the only terms that govern the sale of the goods (“**Goods**”) by Terra Supreme Battery LLC, an Indiana limited liability company (“**Seller**”) to the buyer named on the purchase order (“**Buyer**”). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) The accompanying quotation, confirmation of sale, or invoice (the “**Sales Confirmation**”), Seller’s Limited Warranty (defined below), and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between the parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms. The parties may use any of their standard purchase orders and other forms for purposes of convenience only. All purchases of Goods by Buyer from Seller shall be subject to these the Agreement. Any provisions in the parties’ standard form documents, including Buyer’s purchase orders which are inconsistent or in conflict with those set forth herein, shall be void and of no force or effect.

(c) Nothing in this Agreement shall be construed to require Seller to sell or continue to sell or supply any of its Goods, or to continue, discontinue or change any model or type of Goods. Seller may discontinue any Goods or change the design of any Goods at any time and shall not be liable under any circumstances for failure to furnish Goods previously furnished, or for failure to modify Goods previously sold. Whenever Goods are in short supply, Seller may allocate the available supply among any or all of its customers, including Buyer, in such manner as Seller deems appropriate.

(d) Order changes or cancellations by Buyer are subject to Seller’s written approval. Additional charges may apply. Seller shall not be liable for any delays due to order changes. Seller may make changes in the Goods without obligation to install such changes in any Goods manufactured prior thereto. Seller may make such changes to any ordered Goods as do not, in Seller’s judgment, interfere with the satisfactory operation of the Goods. Seller may charge Buyer a cancellation charge to cover Seller’s out-of-pocket costs, overhead, fees, expenses, and profits, if Buyer elects to cancel any part of an order or if Seller terminates an order due to Buyer’s violation of any duty to Seller.

### **2. Delivery of Goods and Performance of Ancillary Services.**

(a) The Goods will be delivered within a reasonable time after the receipt of Buyer’s purchase order, subject to availability of finished Goods. Seller shall not be liable for any delays, loss, or damage in transit.

(b) Unless otherwise agreed in writing by the parties, Seller shall deliver the Goods to Buyer at Seller’s manufacturing facility located at 1563 East State Road 8, Albion, IN 46701 (the “**Delivery Point**”) using Seller’s standard methods for packaging such Goods, except as express provided in a purchase order accepted by Seller. Buyer shall take delivery of the Goods immediately following Seller’s notice that the Goods have been delivered to the Delivery Point. Seller shall assist Buyer in loading the Goods with reasonable assistance of Buyer. Buyer shall be responsible for all transportation costs and provide labor reasonably suited for receipt of the Goods at the Delivery Point.

(c) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer’s purchase order.

(d) If for any reason Buyer fails to accept delivery of any of the Goods on the date fixed pursuant to Seller’s notice that the Goods have been delivered at the Delivery Point, or if Seller is unable to deliver the Goods at the Delivery Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

(e) Seller shall use reasonable efforts to meet any performance dates to render any related services specified in the Sales Confirmation, and any such dates shall be estimates only. With respect to any services provided by Seller related to the sale of Goods hereunder, Buyer shall (i) cooperate with Seller in all matters relating to the services and provide such accommodations as may reasonably be requested by Seller, for the purposes of performing the services; (ii)

respond promptly to any Seller request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Seller to perform services in accordance with the requirements of this Agreement; (iii) provide such customer materials or information as Seller may request to carry out the services in a timely manner and ensure that such customer materials or information are complete and accurate in all material respects; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the services before the date on which the services are to start.

3. Non-Delivery. The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. Seller shall not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within five (5) days of the date when the Goods would in the ordinary course of events have been received. Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered. Buyer acknowledges and agrees that the remedies set forth in Section 3 are Buyer's exclusive remedies for any non-delivery of Goods.

4. Shipping Terms. Delivery of the Goods shall be made FOB Delivery Point, unless otherwise agreed by Seller.

5. Title and Risk of Loss. Title and risk of loss pass to Buyer upon delivery of the Goods at the Delivery Point. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title, and interest of Buyer in, to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. Buyer hereby authorizes Seller to execute and file appropriate UCC financing statements or other documents on Buyer's behalf to perfect Seller's security interest and agrees to perform all acts necessary to protect Seller's interest. The security interest granted under this provision constitutes a purchase money security interest under the Indiana Uniform Commercial Code.

6. Buyer's Acts or Omissions. If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

7. Inspection and Rejection of Nonconforming Goods.

(a) Buyer shall inspect the Goods within five (5) business days of receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's manufacturing facility. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point.

(c) Buyer acknowledges and agrees that the remedies set forth in Section 7(b) are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 7(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

8. Prices. Buyer shall purchase the Goods from Seller at the prices (the "**Prices**") set forth in Seller's Sales Confirmation. If the Prices should be increased by Seller before delivery of the Goods to a carrier for shipment to Buyer, then these Terms shall be construed as if the increased prices were originally inserted herein, and Buyer shall be billed by Seller on the basis of such increased prices. All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs, and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personal or real property, or other assets.

9. Payment Terms. Buyer shall pay all invoiced amounts due to Seller within thirty (30) days from the date of Seller's invoice. Buyer shall make all payments hereunder by wire transfer or check and in US dollars, except as otherwise directed by Seller in writing. Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods or performance of any ancillary services if Buyer fails to pay any amounts when due hereunder. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy, or otherwise.

10. Limited Warranty.

(a) SELLER'S WARRANTY OBLIGATIONS WITH RESPECT TO ANY GOODS AND SERVICES SHALL BE LIMITED TO COMPLYING WITH ITS PUBLISHED LIMITED WARRANTY FOR THE GOODS AS IN EFFECT FROM TIME TO TIME, WHICH ARE HEREBY INCORPORATED HEREIN BY REFERENCE (THE "**LIMITED WARRANTY**"). BUYER ACKNOWLEDGES BUYER HAS RECEIVED A COPY OF SELLER'S LIMITED WARRANTY.

(b) **EXCEPT FOR THE WARRANTIES REFERENCED IN SECTION 10(a), SELLER MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO ANY GOODS OR SERVICES, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.**

(c) Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to, or packaged together with, the Goods. Third Party Products are not covered by the warranties provided by Seller in this Agreement. **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (D) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

(d) All terms, conditions, rights, and obligations related to the warranty of the Goods shall be governed exclusively by the Limited Warranty, except as supplemented herein. In the event of any conflict between this Agreement and the Limited Warranty, the terms of the Limited Warranty shall control with respect to warranty-related matters.

(e) **THE REMEDIES SET FORTH IN THIS SECTION ARE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN THIS AGREEMENT.**

11. Limitation of Liability.

(a) **IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

(b) **IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS AND SERVICES SOLD HEREUNDER.**

(c) The limitation of liability set forth in this Section 11 shall not apply to liability resulting from Seller's gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts) as proven by clear and convincing evidence. Notwithstanding the foregoing, the limitation of liability set forth in Section this 11 shall apply to the greatest extent permitted by law.

12. Compliance with Law. Buyer shall comply with all applicable laws, regulations, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other duties or penalties on the Goods.

13. Indemnification. Buyer shall indemnify, defend, and hold harmless Seller and its directors, officers, employees, affiliates, and assigns from and against any and all losses, damages (including incidental and consequential damages), expenses (including court costs, reasonable attorneys' fees, interest expenses, and amounts paid in compromise or settlement), suits, actions, claims, penalties, liabilities, or obligations (individually, a "Loss"; collectively, "Losses") related to, caused by, arising from, or on account of: (i) Buyer's purchase, receipt, storage, handling, use, sale, or shipping of Goods or any other goods, provision of services, or any other act or omission of Buyer; (ii) Buyer's negligence, willful misconduct, or violation of applicable laws or regulations; (iii) any claim that the execution or performance of the Agreement violates any rights of any person; (iv) any warranty, promise, representation, assurance, or other statement made by Buyer that differs from or adds to Seller's standard express limited warranties concerning the Goods; (v) any actual or alleged defects in Goods manufactured to Buyer's specifications or in any parts supplied to Buyer, unless such defect is due to Seller's sole negligence; (vi) any third-party allegation that the Goods, or any item incorporating the Goods, infringe or misappropriate any copyright, patent, trade secret, trademark, trade name, or other proprietary rights; (vii) Buyer's failure to comply with any covenant, provision, or agreement under this Agreement; (viii) any claims resulting from special marking of Goods or containers as requested by Buyer; (ix) any claim, fine, penalty, or liability related to Buyer's employment practices, labor disputes, worker classification, or failure to comply with applicable wage and hour laws, workplace safety laws, or immigration laws; (x) any claim, penalty, or liability arising from Buyer's handling, disposal, transportation, or use of the Goods in violation of environmental laws, hazardous materials regulations, or industry best practices; (xi) any claim, penalty, or liability resulting from Buyer's failure to comply with applicable data protection laws, cybersecurity requirements, or improper handling of Seller's confidential information, trade secrets, or customer data; (xii) any claim, fine, penalty, or liability arising from Buyer's failure to comply with applicable trade laws, export controls, economic sanctions, or customs regulations regarding the sale, transfer, or shipment of the Goods; or (xiii) any claim arising from acts, omissions, or misconduct of Buyer's subcontractors, agents, distributors, or resellers in connection with the Goods.

14. Termination. In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of these Terms, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

15. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement operates or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

16. Intellectual Property. Seller shall have all right, title, and interest in and to all statutory and non-statutory intellectual property rights worldwide which are available to protect discoveries, ideas, designs, inventions, improvements, processes, works of authorship (including software), trade secrets, and other intellectual property of any kind including, without limitation, patents, copyrights, and all other rights available to protect trade secrets and confidential information, based in whole or in part on inventions, developments, or improvements created, conceived or reduced to practice by or on behalf of Seller in connection with any Goods sold hereunder. Buyer's employees will cooperate in the preparation of any application for intellectual property rights in the U.S. and other countries with respect to any invention, development, or improvement.

17. Confidential Information. All non-public, confidential or proprietary information of Seller, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in

the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

18. Force Majeure. Seller shall not be liable or responsible to Buyer or any other third party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond Seller's reasonable control, including, without limitation, the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, pandemic, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) other events beyond the control of Seller. Seller shall give notice within a reasonable period of the Force Majeure Event to Buyer, stating the period the occurrence is expected to continue. Seller shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. Seller shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. If the Seller's failure or delay remains uncured for a period of ninety (90) days following written notice given by it under this Section, Seller may thereafter terminate this Agreement upon thirty (30) days' written notice.

19. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

20. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. Buyer agrees that it shall not use the Seller's name or logo, nor any adaptation or variation thereof, in any manner whatsoever (including, but not limited to, website(s), press releases, reference lists, or similar public announcements), without the Seller's prior written consent in each instance.

21. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.

22. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Indiana without giving effect to any choice or conflict of law provision or rule (whether of the State of Indiana or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Indiana.

23. Submission to Jurisdiction. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Indiana in each case located in the City of Fort Wayne and County of Allen, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

24. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

25. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

26. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction, and Survival.

27. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.

28. Non-Discrimination. Seller warrants that it shall not discriminate against any employee or applicant for employment on the basis of race, creed, color, age, sex, or national origin; or on the basis of the employee or applicant being a disabled veteran or veteran of the Vietnam Era, in regard to a position for which the employee or applicant is qualified.

29. Interpretation. The parties acknowledge that they have had the opportunity to review and negotiate this Agreement and that this Agreement shall be deemed to have been drafted jointly by the parties. Any rule of construction or interpretation that resolves ambiguities against the drafting party shall not apply to this Agreement. The headings in this Agreement are for convenience only and shall not affect its interpretation.