



**DANDELION ENERGY, INC.  
TERMS AND CONDITIONS OF SALE**

These Terms and Conditions of Sale (these "**Terms**") govern the sale of Goods by Dandelion Energy, Inc. ("**Seller**") to the customer listed on the applicable quotation, credit application, proposal, purchase order, ordering document, order confirmation, or invoice ("**Sales Confirmation**," and such customer, the "**Buyer**").

**1. Applicability.**

(a) These Terms and the Sales Confirmation 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.

(b) 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 such contract shall prevail to the extent they are inconsistent with these Terms. Otherwise, no conflicting, contrary or additional terms and conditions shall be deemed accepted by Seller unless acceptance is expressly confirmed in writing.

(c) These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.

(d) These Terms shall apply to any sale of goods by Seller to Buyer ("**Goods**"), including those noted on a Sales Confirmation. Buyer accepts these Terms by signing and returning Seller's quotation, submitting a purchase order in response to the quotation, instructing Seller to ship Goods, or accepting or paying for the Goods.

**2. Orders and Acceptance; Shipping, Title and Risk of Loss.**

(a) To order Goods, Buyer shall submit a purchase order or similar ordering document to Seller in writing. No order is binding on Seller unless accepted by its authorized representative in writing, which shall be in the form of an order confirmation or similar confirming document. Seller may reject any order, in whole or in part, for any reason.

(b) 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.

(c) Unless otherwise agreed in writing by the parties, Seller shall be shipped F.O.B. Seller's shipping point (Origin). Seller's delivery obligations shall be deemed satisfied, and title and risk of loss or damage to the Goods shall pass to Buyer, upon Seller's tender of the Goods to the carrier at the point of shipment. Any delivery address identified in a Sales Confirmation is provided solely for purposes of shipment coordination and shall not alter the F.O.B. Origin terms set forth above.

(d) Seller shall use its standard methods for packaging and shipping Goods. Buyer shall be responsible for all loading costs and

provide equipment and labor reasonably suited for receipt of the Goods at the applicable delivery point.

(e) 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.

**3. Inspection and Rejection of Nonconforming Goods.**

(a) Buyer shall inspect the Goods within three 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; (ii) product's label or packaging incorrectly identifies its contents, and (iii) products that are materially defective.

(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. If requested by the Seller, Buyer shall ship the Nonconforming Goods to Seller's facility. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer the replaced Goods to the Delivery Point.

(c) Except as set forth in Section 3(b) above, Goods may not be returned without Seller's prior written approval. If Seller approves of a return, it may charge a restocking fee of 25% or \$25.00 (whichever is greater). Return freight is Buyer's responsibility.

**4. Price.**

(a) Buyer shall purchase the Goods from Seller at the prices (the "**Prices**") set forth in Seller's quotation that is in force as of the date of Buyer's purchase order.

(b) 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, personnel, or real or personal property or other assets.

**5. Payment Terms.**

(a) Buyer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice. Buyer shall make all payments hereunder by wire transfer and in US dollars.

(b) 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 if Buyer fails to pay any amounts when due hereunder and such failure continues for 3 days following written notice thereof.

(c) 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.

**6. No Warranty. SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY OR (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. THE BUYER'S SOLE AND EXCLUSIVE WARRANTY, IF ANY, IS THAT PROVIDED BY THE MANUFACTURER OF THE GOODS.**

**7. Indemnification.** Buyer shall indemnify, defend, and hold harmless Seller, its affiliates, successors, assigns, and their respective officers, directors, and employees from any claims, losses, damages, costs, and expenses (including reasonable attorney's fees and good-faith settlements) arising from: (i) Buyer's or its representatives' acts or omissions related to the purchase, handling, transport, import/export, use, marketing, sale, installation, service or maintenance of Goods; (ii) Buyer's representations or omissions regarding Goods beyond Seller's express warranties; (iii) sales to installers or partners known or reasonably suspected by Buyer to be unqualified, code violators, or responsible for hazardous installations; (iv) misuse or unauthorized disclosure of Seller's intellectual property; (v) Buyer's or its agents' intentional misconduct or negligence; (vi) Buyer's contractual obligations to third parties; (vii) misuse or modification of Goods by Buyer or its agents; and (viii) Buyer's failure to comply with applicable laws or these Terms.

**8. 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 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 SOLD HEREUNDER.**

(c) The limitation of liability set forth in Section 8(b) above shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's gross negligence or willful misconduct.

(d) The foregoing disclaimers and limitations in Sections 7 and 8 will not apply to the extent prohibited by applicable law.

**9. 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.

**10. 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: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) 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.

**11. 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.

**12. 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.

**13. Force Majeure.** No party shall be liable or responsible to the other 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 (except for any obligations of Buyer to make payments to Seller hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)": acts of God; flood, fire, earthquake, or explosion; war, invasion, hostilities, terrorist threats or acts, riot or other civil unrest; government order, law, or action; embargoes or blockades in effect on or after the date of this Agreement; and national or regional emergency. The Impacted Party shall give notice within 10 days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

**14. 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.

**15. 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.

**16. 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.

**17. Governing Law.**

(a) 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 Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Delaware.

(b) Venue. Each party irrevocably submits to the exclusive jurisdiction of the state and federal courts located in the State of Delaware for the purpose of any action, suit, or proceeding arising out of or relating to this Agreement or the sale of the Goods. WAIVER OF JURY TRIAL.

(c) Waiver of Jury Trial. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVES ANY RIGHT TO A TRIAL BY

JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE GOODS, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Attorneys' Fees. In any action, suit, or proceeding arising out of or relating to this Agreement or the sale of the Goods, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, in addition to any other relief to which it may be entitled.

**18. 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), facsimile (with confirmation of transmission), 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.

**19. 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.

**20. 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.