



EAE USA INC.

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## TECHNICAL AND COMMERCIAL TERMS AND CONDITIONS

These Technical and Commercial Terms and Conditions (the “Terms and Conditions”) are entered into by and between EAE USA Inc. (“EAE”) and the customer purchasing products from EAE (the “Customer”). These Terms and Conditions are hereby incorporated into, and form a part of, each applicable quotation form issued by EAE that references them (each, a “Quote Form”) and govern the purchase and sale of the products offered by EAE under the applicable Quote Form (the “Products”).

**Customer acknowledges and agrees that submission of a Purchase Order (as defined below) in response to the applicable Quote Form constitutes binding acceptance of the applicable Quote Form and these Terms and Conditions.** Any conflicting or additional terms contained in any Purchase Order, agreement, or other form or request (including any documentation provided by Customer), whether presented in clickthrough, clickwrap or other form, shall **not be binding and are hereby rejected** unless such terms are expressly and mutually accepted in writing between the parties.

### 1. VALIDITY OF QUOTE.

Unless otherwise expressly set forth in the applicable Quote Form, the pricing set forth in the applicable Quote Form shall remain valid for three (3) business days after it is sent by EAE to Customer. EAE shall use reasonable efforts to maintain the pricing set forth in the applicable Quote Form beyond its stated validity period; however, EAE does not guarantee such pricing and reserves the right to adjust prices accordingly.

### 2. ACCEPTANCE.

To accept the applicable Quote Form, Customer must submit a purchase order to EAE for the Products set forth on the Quote Form on an industry-standard purchase order form (each, a “Purchase Order”). **Customer acknowledges and agrees that submission of a Purchase Order constitutes Customer’s binding acceptance of the applicable Quote Form and the Terms and Conditions contained herein.**

### 3. PREPAYMENT.

EAE may require Customer’s prepayment for Products, as determined in EAE’s sole discretion. Unless otherwise set forth in the applicable Quote Form, production of the Products shall commence only after EAE’s receipt of (i) Customer’s Purchase Order, duly signed and stamped by Customer, and (ii) if required by EAE, evidence of prepayment in the form of a SWIFT copy or other reasonable banking confirmation acceptable to EAE.

### 4. PAYMENT TERMS.

Customer shall pay the prices set forth in the applicable Quote Form (the “Purchase Price”). Unless otherwise expressly set forth in the applicable Quote Form, the Purchase Price shall be paid in full, in a single installment, by bank transfer or cash within thirty (30) days from the date the invoice. Any bank fees, transfer charges, or similar costs shall be borne by the Customer. The Purchase Price includes the Products only, and does not include any labor for installation, assembly, commissioning, or supervision. All fees due and paid are strictly non-refundable.

### 5. SALES TAX.



**EAE USA INC.**

The Purchase Price is exclusive of any and all bonds, retention amounts, and sales taxes. Customer shall be solely responsible for, and shall timely pay, all bonds, retention amounts, and sales taxes arising out of or in connection with the purchase, sale, or use of the Products, and no such bonds, retention amounts, or sales taxes are included in the Purchase Price.

**6. PRICE CHANGES.**

Customer acknowledges and agrees that the Purchase Price may be adjusted: (a) to reflect any Regulatory Price Changes (as defined below), as determined by EAE in its sole discretion; or (b) to reflect any increases in raw material prices occurring prior to completion of production, which EAE may pass through to Customer.

**7. CONFIRMATION.**

Upon receipt of the Purchase Order, EAE may, in its sole discretion, accept the Purchase Order by issuing an order confirmation for the Products outlined in the applicable Quote Form (the "Order Confirmation"). Any additional, different, or conflicting terms contained in any Purchase Order or other Customer documentation are proposals only and are expressly objected to and rejected by EAE and will not bind EAE unless EAE expressly agrees in writing to that specific term in the Order Confirmation. Any such expressly written acceptance applies only for the term identified in the Order Confirmation and only to the specific Purchase Order identified therein.

**8. ORDER CHANGES.**

Unless otherwise permitted under these Terms and Conditions, once EAE has issued an Order Confirmation, the Purchase Order may not be modified, reduced, or cancelled without penalty and without EAE's prior written consent. If any change is requested by Customer after EAE has issued the Order Confirmation but before the start of production, EAE may, in its sole discretion, approve such change in writing and charge a re-engineering fee equal to two to four percent (2%–4%) of the total value of the Purchase Order, in addition to any other costs incurred as a result of the change. If any change is requested after production has commenced, all materials originally included in the Purchase Order shall be invoiced in full, and any revised requirements shall be treated as a separate change order and priced at EAE's then-current rates. Once production has been confirmed by the factory, all materials under the Purchase Order shall be strictly non-cancellable, non-returnable, and non-refundable, unless otherwise expressly agreed in a written instrument signed by an authorized representative of EAE.

**9. COMMERCIAL RESPONSIBILITY.**

The parties are obliged to fulfill their commercial responsibilities towards each other, including EAE's obligation to deliver the correct Products in accordance with these Terms and Conditions to the delivery address specified on the applicable Order Confirmation and use commercially reasonable efforts to deliver the Products in line with the estimated delivery date, and Customer's obligation to pay the Purchase Price and all other amounts due in full, on time, and without undue delay.

**10. DELIVERY.**

Delivery timelines shall be communicated by EAE to Customer. EAE will use commercially reasonable efforts to make the Products available by requested delivery dates, but any delivery dates provided are estimates only.



**EAE USA INC.**

Except for payments owed by Customer to EAE, time is not of the essence and EAE will not be liable for delay in delivery.

**11. LATE PAYMENT FEE.**

If Customer fails to pay any invoice in full, EAE may, at its sole discretion and without prejudice to any other rights or remedies, and to the fullest extent permitted under applicable law, charge a late payment fee at a rate of three percent (3%) to five percent (5%) of the outstanding fees owed to EAE for each month (or part thereof) that payment remains overdue. If a rate between three percent (3%) and five percent (5%) is not permitted by applicable law, then the maximum amount permitted by applicable law shall apply instead. EAE may decide whether to apply or waive the late payment fee on a case-by-case basis, including in light of Customer's payment history and any extenuating circumstances. Unless otherwise required by law, any amounts received from Customer shall be applied first to accrued late payment fees, interest, and costs of collection (if any), and only thereafter to the unpaid portion of the fees. The assessment or waiver of a late payment fee does not limit, restrict, or prejudice any other rights or remedies that EAE may have under these Terms and Conditions or applicable law in connection with Customer's failure to pay amounts when due.

**12. DISCOUNTS.**

Unless expressly set forth in the applicable Quote Form, the Purchase Price is exclusive of any discounts, rebates, setoffs, or deductions.

**13. DOCUMENTATION.**

Any documentation or reports requested in addition to the standard invoice, packing list, and certificate of origin, including but not limited to marking or packaging method reports, Factory Acceptance Test (FAT) or audit inspection documentation, and attestations issued by a Chamber of Commerce or a Consulate, must be expressly requested in writing by Customer in the Purchase Order and expressly accepted in writing by EAE in an Order Confirmation or other written acceptance issued by EAE.

**14. PACKING.**

Unless different packing requirements are expressly specified in the applicable Quote Form, the Products shall be packaged in accordance with generally accepted industry-standard packing methods. Any different packing requirements expressly agreed in writing by EAE may be subject to additional fees.

**15. STANDARDS.**

Unless otherwise expressly set forth in the applicable Quote Form, Products shall comply with the description and with Electrical Testing Laboratories (ETL) and Underwriters Laboratories (UL) standards, each as applicable. Routine factory testing of the Products shall be performed by EAE in accordance with applicable International Electrotechnical Commission (IEC) and UL standards, and standard factory test records for the items ordered shall be made available to Customer if requested by Customer in the Purchase Order.

**16. FIELD MEASUREMENT/SITE VISIT & TRAINING.**



**EAE USA INC.**

If EAE agrees to provide field measurements, site visits, or training, the scope of those services will be specified in the applicable Quote Form and subject to additional fees as determined by EAE.

**17. GROUNDING SYSTEM.**

Grounding shall be limited to housing only, unless otherwise specified by EAE (which may include (a) a 0.5 conductor half ground, or (b) a dedicated ground conductor as part of a 4, 5, or 6 wire system).

**18. SHIPPING TERMS.**

Subject to Customer's compliance with these Terms and Conditions, EAE shall deliver the Products Delivered Duty Paid (DDP, Incoterms® 2020) to the delivery address identified in the applicable Quote Form. Delivery shall be deemed complete, and title to and risk of loss in the Products shall pass to Customer when the Products are placed at the delivery address identified in the applicable Quote Form, unless another shipment method is expressly agreed to in the applicable Quote Form. Under DDP, EAE (or its subcontractor) shall be responsible for transportation to the named place of delivery and all applicable export/import clearance, insurance, duties, taxes, and associated risks and costs up to that point, while Customer shall be solely responsible for unloading, storage and all costs and risks occurring after delivery, unless otherwise agreed to in writing by EAE. Unless otherwise specified in the applicable Quote Form, standard freight is included in the Purchase Price; however, any premium, expedited, or air freight requested by Customer shall be separately invoiced to, and paid by, Customer when such charges are incurred.

**19. INSPECTION.**

Customer shall inspect all Products promptly upon delivery and shall notify EAE in writing of any damage to the Products occurring in transport or during the shipping process within five (5) days of receipt, providing reasonably detailed information regarding the nature and extent of such damage. As a condition to initiate any damage claim, Customer shall provide EAE with photographs and/or videos of the damaged Products and an official written report (such as a carrier report or other incident documentation reasonably acceptable to EAE). Upon timely receipt of such notice and the requisite supporting documentation, EAE shall initiate and submit a claim to the appropriate insurer on Customer's behalf, and Customer shall reasonably cooperate with EAE and such insurer in the investigation, adjustment, and resolution of the claim, including by providing additional information or access to the damaged Products as reasonably requested. Failure to provide such written notice within the aforementioned five (5) day period shall constitute a waiver of any rights or remedies with respect to such damage, and any accommodation or remedy provided thereafter shall be in EAE's sole discretion.

**20. USE RESTRICTIONS.**

Customer and its affiliates shall not, and shall not permit any third party to, reverse engineer, disassemble, deconstruct, or otherwise analyze the physical composition, design, materials, or manufacturing process of the physical Products or any part thereof, or perform any similar activities intended to discover or replicate their underlying structure, technology, or know-how. Customer shall not use, modify, alter, adapt, or create derivative works of the physical Products or any physical components thereof, except to the limited extent necessary to use the Products in their intended general form and purpose, and then only in accordance with these Terms and Conditions and without violating any of EAE's intellectual property rights.



**EAE USA INC.**

**21. FORCE MAJEURE.**

EAE shall not be liable for any failure or delay in performing its obligations under these Terms and Conditions or any applicable Quote Form to the extent such failure or delay results from circumstances beyond EAE's reasonable control, including, without limitation, supply chain disruptions related to raw material suppliers, acts of God, war, terrorism, civil unrest, strikes or other labor disputes, fire, flood, natural disasters, epidemics, pandemics, governmental actions or orders, embargoes, or shortages or disruptions in transportation, power, or other essential services (each, a "Force Majeure Event"). The obligations of EAE affected by any such Force Majeure Event shall be deemed suspended for the period and to the extent of the impact of the Force Majeure Event, and EAE shall have no liability for any non-delivery, non-production, loss, damage, or cost arising therefrom. Customer's obligation to make all payments when due shall not be excused, suspended, or otherwise affected by any Force Majeure Event, and EAE shall have no liability of any kind for any failure or delay in performance caused by Customer or any third party. If any new tariff, duty, tax, or similar governmental charge applicable to the Products or shipment (each, a "Regulatory Price Change") is imposed or increased after the date of sale, the Purchase Price shall be adjusted accordingly to reflect such additional costs, and EAE shall have no liability for any resulting increase in the Purchase Price.

**22. CONFLICTS.**

These Terms and Conditions and the applicable Quote Form are intended to be read together and interpreted to give effect to all provisions. In the event of any conflict or inconsistency between these Terms and Conditions and the applicable Quote Form, these Terms and Conditions shall control, except to the extent these Terms and Conditions expressly permit modification by the applicable Quote Form, or as otherwise expressly agreed to in writing by EAE. **Any conflicting or additional terms contained in any Purchase Order, agreement, or other form or request (including any documentation provided by Customer), whether presented in clickthrough, clickwrap or other form, shall be void and of no force or effect, except and solely to the extent that specific provisions are agreed upon in writing between the parties hereafter.**

Notwithstanding the foregoing, if Customer and EAE are parties to a separate written agreement issued by EAE that expressly governs the purchase of the Products identified in the applicable Quote Form (including, without limitation, any Exempt Buyer Agreement or Manufacturer Representative Agreement) (each, a "Governing Agreement"), the Governing Agreement incorporates and references these Terms and Conditions, and both shall be read together. In the event of a direct conflict, the Governing Agreement shall supersede and control solely to the extent of any inconsistency. All other terms contained herein shall continue to apply and remain in full force and effect.

**23. WARRANTY.**

**23.1 Limited Warranty.** EAE warrants that the Products will be free from manufacturing defects in materials and workmanship for a period of twenty-four (24) months from the date of the relevant Bill of Lading (the "Warranty Period"), provided that the Products have been transported, stored, installed, operated, and maintained strictly in accordance with EAE's catalogues, technical data sheets, and other written instructions. During the Warranty Period, EAE shall, at its expense, and as Customer's sole remedy and EAE's sole liability for breach of the warranties herein, repair, modify or replace (at EAE's sole option) any Product or part thereof which fails as a result of a breach of the warranties set forth herein.



**EAE USA INC.**

23.2 Exclusions. If a manufacturing defect is observed, Customer shall not attempt to remove the Product, nor permit any third party to do so, and shall instead contact EAE to arrange for removal and/or shipment of the Product to the factory for examination without any intervention. Any intervention, alteration, or repair carried out without EAE's authorization shall result in the Product being excluded from warranty coverage and termination of the Warranty Period. This warranty does not apply to, and expressly excludes, any defect, damage, injury or nonconformity resulting from: (i) misuse, abuse, negligence, improper or non-compliant installation, operation, or maintenance; (ii) damage caused by fire, accident, act of God, or Force Majeure Event; (iii) improper handling, storage, modification, or repair by any person other than EAE or its authorized representatives; or (iv) acts or omissions of third parties, including but not limited to other contractors, service providers, or end users.

23.3 DISCLAIMER. EXCEPT AS SPECIFICALLY PROVIDED FOR IN THIS SECTION 23, ALL PRODUCTS ARE PROVIDED "AS IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. EAE DOES NOT REPRESENT OR WARRANT THAT THE PRODUCTS WILL BE COMPATIBLE WITH ANY DOWNSTREAM PRODUCT OR OTHERWISE MEET CUSTOMER'S REQUIREMENTS, EXPECTATIONS OR INTENDED USES, OR THAT THE PRODUCTS WILL BE DELIVERED BY ESTIMATED DELIVERY DATES. EAE HEREBY DISCLAIMS (FOR ITSELF AND ITS AFFILIATES) ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, QUIET ENJOYMENT, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE TO THE FULLEST EXTENT PERMITTED BY LAW. CUSTOMER ACKNOWLEDGES AND AGREES THAT EAE, ITS AFFILIATES AND ITS AND THEIR AGENTS ARE NOT LIABLE IN ANY MANNER FOR CUSTOMER'S USE OF THE PRODUCTS FOR A PURPOSE AND IN A MANNER AND FORM THAT ARE NOT INTENDED OR CONTEMPLATED BY THESE TERMS AND CONDITIONS.

#### 24. **LIMITATION OF LIABILITY.**

UNDER NO CIRCUMSTANCES SHALL EAE BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR FOR ANY LOSS OF PROFITS, REVENUE, OR BUSINESS OPPORTUNITY, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, EAE SHALL NOT BE LIABLE FOR ANY LOSS, INJURY, OR DAMAGE, ARISING OUT OF OR RELATING TO THE EXCLUSIONS DESCRIBED IN SUBSECTION 23.2 ABOVE. EAE'S AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS SHALL BE LIMITED TO THE TOTAL PURCHASE PRICE PAID OR PAYABLE BY CUSTOMER TO EAE UNDER THE APPLICABLE PURCHASE ORDER TO WHICH THE CLAIM RELATES. THE LIMITATIONS AND EXCLUSIONS IN THIS SECTION SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

#### 25. **INDEMNIFICATION.**

25.1 Customer Indemnification. Customer hereby agrees to defend, indemnify and hold EAE harmless from and against any and all third party claims, demands, losses, damages, liabilities or costs (including professional fees and costs as incurred) (collectively, "Losses"), arising out of: (a) any products, goods, materials, components not supplied by EAE; (b) any modification of the Products after delivery (except as necessary for their intended use); (c) use or combination of the Products with other products, processes, or materials; (d) use of the Products in applications for which they were not designed or intended; or (e) any specifications or documentation provided by Customer.



**EAE USA INC.**

**26. MISCELLANEOUS.**

- 26.1 Waiver. The failure of EAE at any time to require performance by Customer shall not affect EAE's right to require such performance at any time thereafter. No waiver by EAE of any breach of any provision of these Terms and Conditions shall be deemed a waiver of any subsequent breach of the same or any other provision, or a waiver of such provision itself.
- 26.2 Modification. EAE reserves the right, in its sole discretion, to modify these Terms and Conditions at any time, with such modifications becoming effective upon posting. Customer's submission of a Purchase Order after the modified Terms and Conditions are posted will constitute Customer's acceptance of those modifications.
- 26.3 Severability. If any provision of these Terms and Conditions is held to be invalid or unenforceable by a court of competent jurisdiction or under any applicable law, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions, which shall remain in full force and effect.
- 26.4 Jurisdiction. Unless otherwise set forth herein, this Agreement shall be governed by and construed in accordance with the laws of the state of Georgia, excluding its conflicts of law rules.
- 26.5 Arbitration. The parties agree to resolve all unresolved disputes through arbitration before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), then pertaining (available at [www.adr.org](http://www.adr.org)), except where those rules conflict with this provision, in which case this provision controls. The arbitration shall be held in Fulton County, Georgia and shall apply the substantive law of Delaware, except that the interpretation and enforcement of this arbitration provision shall be governed by the Federal Arbitration Act.