

STANDARD TERMS AND CONDITIONS OF SALE FOR SIEMENS JOINT PRODUCT AND SERVICES OFFERING

1. APPLICABLE TERMS. This Agreement governs the sale and performance of equipment, components, parts and materials ("Products") and services provided by Siemens ("Services"). Collectively this Agreement may refer to the joint offering as "Siemens Products and Services". The Standard Terms Addenda, these terms, any other applicable addenda, Siemens' proposal, price quote, purchase order or acknowledgement issued by Siemens form the parties' final agreement ("Agreement"). In the event of any ambiguity or conflict between these documents, precedence shall apply in accordance with the order written in the previous sentence. Siemens' proposal, offer or acceptance is conditioned on Buyer's acceptance of this Agreement. Any additional or conflicting terms in Buyer's request for proposal, specifications, purchase order or any other written or oral communication are not binding on Siemens unless separately signed by Siemens. Siemens' failure to object to Buyer's additional or conflicting terms does not operate as a waiver of the terms contained in this Agreement.

2. PRICING & PAYMENT. Prices and payment terms are: (i) as stated in Siemens' proposal, or if none are stated; (ii) Siemens' standard rates in effect when Siemens receives Buyer's purchase order. If neither (i) nor (ii) apply, then Siemens' standard rates for Services shall be those in effect at the time Siemens renders the services and Siemens' rates for Products shall be those in effect at the time of shipment.

(a) Payment – Unless stated in Siemens' proposal, all payments are due net thirty (30) days from the invoice date in Canadian Dollars.

(b) Credit Approval – All orders are subject to credit approval by Siemens. Siemens may modify, suspend or withdraw the credit amount or payment terms at any time. If there is doubt as to Buyer's financial condition, Siemens may withhold manufacturing and/or shipment of Product and performance of Services, require cash payments or advance payments, or require other satisfactory financial security before manufacturing and/or shipment of Product and performance of Services.

(c) Taxes – Unless stated in writing by Siemens, Siemens' rates exclude charges for taxes, excises, fees, duties or other government charges related to the Siemens Products and Services. Buyer will pay these amounts or reimburse Siemens. If Buyer claims a tax or other exemption or direct payment permit, Buyer will provide a valid exemption certificate or permit and indemnify, defend and hold Siemens harmless from any taxes, costs and penalties arising from same. Increases, changes (including in application), adjustments or surcharges which may be incurred are for Buyer's account.

(d) Late Payments – Late payments shall bear interest at an annual percentage rate of twelve percent (12%) or the highest rate allowed by law, whichever is lower.

(e) Disputed Invoice – If Buyer disputes all or any portion of an invoice, it must first deliver written notice to Siemens of the disputed amount and the basis for the dispute within twenty-one (21) days of receiving the invoice. Failure of Buyer to timely notify Siemens of any dispute constitutes a waiver of Buyer's claim. If Buyer only disputes a portion of the invoice Buyer must pay the undisputed portion in accordance with Article 2(a). Upon resolution of the dispute in favor of Siemens, Buyer must pay the invoice or the remainder of the invoice, plus any accrued interest on the late payment.

(f) Suspension/Termination Right – Siemens may suspend Services and manufacturing and/or shipment of Product if an undisputed invoice is more than fifteen (15) days past due. Siemens may terminate this Agreement if an undisputed invoice is more than thirty (30) days past due. Unless otherwise prohibited by law, Siemens may also terminate this Agreement immediately in the event of a material adverse change in the Buyer's financial condition, including, but not limited to bankruptcy, insolvency, or liquidation.

(g) Installment Shipment of Product – Where Products are delivered in shipments or only part of a shipment fails to comply with this Agreement, the Buyer may only reject the non-compliant portion. Buyer will separately pay for each shipment. If Siemens holds or stores Products for Buyer, it shall do so at Buyer's sole risk and expense.

(h) Shipping, Packing and Handling of Product – Unless stated in writing by Siemens, Siemens' prices exclude charges for freight, unloading, storage, insurance, taxes, excises, fees, duties or other government charges related to the Products. Buyer will pay these amounts or reimburse Siemens. Siemens' prices include the costs of its standard domestic packing only. Any packing deviation will be charged to Buyer. Increases, changes (including in application), adjustments or surcharges which may be incurred are for Buyer's account.

3. RISK OF LOSS AND SCHEDULE OF SERVICES. Services shall be performed at the location identified in the Agreement ("Site"). Risk of loss of or damage to Buyer's equipment, including "Equipment" (equipment, materials, components and items of any kind for which Siemens is to provide Services under the Agreement), shall remain with Buyer at all times during the performance of the Services hereunder. If Buyer procures or has procured property damage insurance applicable to occurrences at the Site, Buyer shall obtain a waiver by the insurers of all subrogation rights against Siemens.

Any performance or completion dates are estimated dates only. Siemens is not liable for any loss or expense incurred by Buyer or Buyer's customers if Siemens fails to meet any such dates.

4. DELIVERY; TITLE; RISK OF LOSS OF PRODUCTS. Products will be delivered F.O.B. Siemens point of shipment with title and risk of loss or damage passing to Buyer at that point. Buyer is responsible for all transportation, insurance and related expenses. The related expenses shall include any taxes, duties or documentation fees. Siemens may make partial shipments. Any shipping, delivery and installation dates are estimated dates only. Siemens is not liable for any loss or expense incurred by Buyer or Buyer's customers if Siemens fails to meet its delivery schedule.

5. TRANSPORTATION AND STORAGE OF PRODUCTS. (a) When Products are ready for shipment, Siemens will: (i) inform Buyer, and Buyer will then promptly give shipping instructions to Siemens; (ii) determine the method of transportation and shipment routing; and (iii) ship the Products with freight prepaid by normal transportation. If Buyer fails to provide timely shipping instructions, Siemens will ship the Products by normal transportation means to Buyer or to a storage location selected by Siemens. Buyer will pay or reimburse any excess transportation charges for special or expedited transportation.

(b) If Products are placed into storage, delivery occurs and risk of loss transfers to Buyer when the Products are placed on the carrier for shipment to the storage location. If the Products are to be stored in the facility where manufactured, delivery occurs and risk of loss transfers to Buyer when placed in the storage location.

Buyer will pay all Siemens' storage expenses, including but not limited to, preparation for and placement into storage, handling, freight, storage, inspection, preservation, maintenance, taxes and insurance, upon receipt of an invoice(s) from Siemens. When conditions permit and upon payment to Siemens of all amounts due, Buyer must arrange, at its expense, to remove the Products from storage. Buyer bears the risk of loss, damage or destruction to Products in storage.

6. CANCELLATION. Buyer may cancel this Agreement at any time on thirty (30) days written notice. Buyer shall have no right to defer shipment of Product. Except for Siemens right to terminate in accordance with Article 2, either party may terminate this Agreement for material breach of the other party, provided that the breaching party has not remedied the breach or commenced to cure the breach within a reasonable period, having due regard to the nature of the breach. In the event of a termination or cancellation, unless the Agreement includes a defined termination or cancellation schedule, Buyer is liable for cancellation charges, including without limitation: (i) the full price for any completed Siemens Products and Services; (ii) the allocable portion of the price as determined by Siemens for any partially completed Siemens Product and Services, including reasonable overhead and profit, (iii) reasonable demobilization costs, and (iv) payments due to subcontractors which cannot be: (1) cancelled without any payment obligation; or (2) refunded.

7. FORCE MAJEURE / DELAYS. If either party is unable to perform or suffers delay in performance, due to any cause beyond its reasonable control (regardless of whether the cause was foreseeable), including without limitation acts of God, inclement or unusually severe weather conditions, strikes, labor shortage or disturbance, fire, accident, war or civil disturbance, delays of carriers, cyber-attacks, terrorist attacks, failure of normal sources of supply, or acts or inaction of government, the time of performance will be extended by a period equal to the length of time it takes to overcome the effect of the event. In addition, Siemens shall be entitled to be compensated by Buyer for reasonable and direct additional costs of Service incurred during such event. Siemens will notify Buyer within a reasonable time after becoming aware of any such event. If there are force majeure delays exceeding 180 days in the aggregate, Siemens may terminate the Agreement pursuant to Article 6. Failure to pay shall not constitute a force majeure delay.

8. BUYER'S REQUIREMENTS. Siemens' performance is contingent upon Buyer timely complying with and fulfilling all of its obligations under this Agreement. These obligations include the Buyer supplying all necessary access to Equipment and Products, where applicable, and all required "Third Party Parts" (parts, components, equipment or materials provided by Buyer or that exist in the Equipment which were not manufactured or supplied by Siemens or which

were originally supplied by Siemens and subsequently repaired, serviced or otherwise altered by any party not affiliated with Siemens), documents, permits and approvals needed for Siemens to perform including, but not limited to, accurate technical information and data, drawing and document approvals, and all necessary commercial documentation. Buyer shall provide access to the Site as reasonably required by Siemens for the performance of the Services. Siemens may request a change order for an equitable adjustment in prices and times for performance, as well as to adjust for any additional costs or any delay resulting from the failure of Buyer, Buyer's contractors, successors or assigns to meet these obligations or any other obligations in this Agreement.

Buyer shall also maintain the Site in a safe condition, notify Siemens promptly of any site conditions requiring special care, and provide Siemens with any available documents describing the quantity, nature, location and extent of such conditions, including any Material Safety Data Sheets (MSDS) related to all hazardous materials at the Site which may impact the Siemens Products and Services.

9. INDEMNITY. Siemens and Buyer (each as an "Indemnitor") shall indemnify, hold harmless and defend the other ("Indemnitee") from and against all third party claims alleging bodily injury, death or damage to a third party's tangible property, but only to the extent caused by the Indemnitor or its subcontractor's negligent acts or omissions. If the injury or damage is caused by the parties' joint or contributory negligence, the loss and/or expenses shall be borne by each party in proportion to its degree of negligence. No part of Buyer's Site or other property of Buyer (or Site Owner) is considered third party property.

Indemnitee shall provide the Indemnitor with prompt written notice of any third party claims covered by this Article. Indemnitor has the unrestricted right to select and hire counsel, and the exclusive right to conduct the legal defense and/or settle the claim on the Indemnitee's behalf. Indemnitee shall not make any admission(s) which might be prejudicial to Indemnitor and shall not enter into a settlement without the express permission of Indemnitor.

10. WARRANTIES.

(a) *Warranties.* Siemens warrants that: (i) it will perform the Services in a professional and workmanlike manner; (ii) each Product is free from defects in material and workmanship; (iii) each Product materially conforms to Siemens specifications that are attached to, or expressly incorporated into this Agreement; and (iv) at the time of delivery, Siemens has title to each Product free and clear of liens and encumbrances (the "**Warranties**"). The Warranties do not apply to software furnished by Siemens. The sole and exclusive warranties for any software are set forth in the applicable Software License/Warranty Addendum.

(b) *Remedies.* If the Services or Product fail to meet the warranty standards set forth in Article 10(a) within the applicable Warranty period defined in Article 10(c), and Buyer promptly reports such non-conformance to Siemens during the above mentioned Warranty period, Siemens shall at its own expense as Buyer's sole and exclusive remedies for breach of the Warranties: (i) for Services, re-perform the relevant Services or, in Siemens' sole discretion, refund Buyer the pro rata portion of the fees paid to Siemens under this Agreement allocable to the nonconforming Services; and (ii) for Product, at Siemens' discretion, repair or replace the Product, or its non-conforming parts, within a reasonable time period, or refund of all or part of the purchase price. The warranty on repaired or replaced Product, Services or parts is limited to the remainder of the original Warranty period.

Unless Siemens agrees otherwise in writing, Buyer will be responsible for any costs associated with: (i) gaining access to the Product or Services; (ii) removal, disassembly, replacement, installation, or reinstallation of any equipment, materials or structures to permit Siemens to perform its warranty obligations; (iii) transportation to and from the Siemens factory or repair facility; and (iv) damage to equipment components or parts resulting in whole or in part from non-compliance by the Buyer with Article 10(d) or from their deteriorated condition. All exchanged Products replaced under this Warranty will become the property of Siemens.

(c) *Warranty Period.* Buyer must provide written notice of any claims for breach of the Warranties by: (i) for Services, within three (3) months from completion of the Services; and (ii) for Product, the earlier of twelve (12) months from initial operation of the Product or eighteen (18) months from shipment. Additionally, absent written notice within the applicable Warranty period, any use or possession of the Product or Services after expiration of the applicable Warranty period is conclusive evidence that the applicable Warranties have been satisfied.

(d) *Conditions to the Warranties.* The Warranties are conditioned on: (i) no repairs, modifications or alterations being made to the Product and Equipment other than by Siemens or its authorized representatives; (ii) Buyer handling, using, storing, installing, operating and maintaining the Product and Equipment in compliance with any parameters or instructions in any specifications attached to, or incorporated into this Agreement, (iii) or in the absence of such conditions, parameters or instructions or to the extent not applicable, in accordance with the generally accepted industry standards applicable in the locale where the Services are being performed and having regard to the nature of the Product and Services; (iv) Buyer discontinuing use of the Product and Equipment after it has, or should have had knowledge of any defect in the Product or Equipment; (v) Buyer providing Siemens with reasonable access to operating and maintenance data as requested by Siemens, (which may include secure broadband connection). Without expense to Siemens, Buyer shall provide to Siemens and Siemens' subcontractors and their respective employees and agents on a twenty four (24) hours a day, seven (7) days a week basis, access to the Site, and each unit, including rights of way and easements required for safe access of such persons and equipment, as well as, to the extent applicable, online access to the Site, including to an installed remote monitoring system and to all units, as necessary to permit Siemens to perform the Services; (vi) Buyer providing prompt written notice of any warranty claims within the Warranty Period; (vii) at Siemens' discretion, Buyer either removing and shipping Product or Equipment or non-conforming part thereof to Siemens, at Buyer's expense, or granting Siemens reasonable access to Products or Equipment to assess the warranty claims; (viii) Product and Equipment not having been subjected to accident (including force majeure), alteration, abuse or misuse; and (ix) Buyer not being in default of any payment obligation. Buyer shall provide, without cost to Siemens, access to the nonconformity by disassembling, removing, replacing and reinstalling any Equipment, materials or structures to the extent necessary to permit Siemens to perform its warranty obligations.

(e) *Exclusions from Warranty Coverage.* The Warranties do not apply to (i) any product not supplied by Siemens; (ii) any Third Party Parts or Equipment; or (iii) to services not performed by Siemens pursuant to this Agreement. Siemens will have no liability to Buyer under any legal theory for such products, Third Party Parts, Equipment, services or any related assignment of warranties. Any Product that is described as being experimental, developmental, prototype, or pilot is specifically excluded from the Warranties and is provided to Buyer "as is" with no warranties of any kind. Normal wear and tear is excluded, including any expendable items that comprise part of the Product (such as fuses, light bulbs and lamps). Siemens does not warrant or guarantee that any Product will be secure from cyber threats, hacking or similar malicious activity. Products that are networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Buyer and/or end user against unauthorized access.

(f) *Transferability.* The Warranties are only transferable during the warranty period and only to the Product's initial end-user.

(g) THE WARRANTIES IN THIS ARTICLE 10 ARE SIEMENS' SOLE AND EXCLUSIVE WARRANTIES, CONDITIONS AND GUARANTEES AS TO SIEMENS PRODUCTS AND SERVICES AND ARE SUBJECT TO THE LIMITS OF LIABILITY IN ARTICLE 11 BELOW. SIEMENS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.

11. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, SIEMENS IS NOT LIABLE, WHETHER BASED IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, FOR: LOSS OF USE, REVENUE, SAVINGS, PROFIT, INTEREST, GOODWILL OR OPPORTUNITY, LOSS OF PRODUCTION, COSTS OF CAPITAL, COSTS OF REPLACEMENT OR SUBSTITUTE USE OR PERFORMANCE, LOSS OF INFORMATION AND DATA, LOSS OF POWER, VOLTAGE IRREGULARITIES OR FREQUENCY FLUCTUATION, CLAIMS ARISING FROM BUYER'S THIRD PARTY CONTRACTS, OR FOR ANY TYPE OF INDIRECT, SPECIAL, LIQUIDATED, PUNITIVE, EXEMPLARY, COLLATERAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE.

SIEMENS' MAXIMUM LIABILITY UNDER THIS AGREEMENT UNDER ANY THEORY OF RECOVERY, SHALL NOT EXCEED THE ACTUAL PURCHASE PRICE RECEIVED BY SIEMENS UNDER THIS AGREEMENT.

THE LIMITATIONS OF LIABILITY IN THIS AGREEMENT REPRESENT THE AGREED AND BARGAINED FOR UNDERSTANDING OF THE PARTIES. BUYER AGREES THAT THE EXCLUSIONS AND LIMITATIONS IN THIS ARTICLE 11 WILL PREVAIL OVER ANY CONFLICTING TERMS AND CONDITIONS IN THIS AGREEMENT AND MUST BE GIVEN FULL FORCE AND EFFECT WHETHER OR NOT ANY OR ALL SUCH REMEDIES ARE DETERMINED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THESE LIMITATIONS OF LIABILITY ARE EFFECTIVE EVEN IF SIEMENS HAS BEEN ADVISED BY BUYER OF THE POSSIBILITY OF SUCH DAMAGES. THE WAIVERS AND DISCLAIMERS OF LIABILITY, RELEASES FROM LIABILITY AND LIMITATIONS ON LIABILITY EXPRESSED IN THIS ARTICLE 11 EXTEND TO SIEMENS' AFFILIATES, PARTNERS, PRINCIPALS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, SUBCONTRACTORS, AGENTS AND SUCCESSORS AND ASSIGNS OF SIEMENS.

IN THE EVENT THAT PHYSICAL LOSS OR DAMAGE TO THE BUYER'S PROPERTY RESULTS FROM THE FAILURE OF A PORTION OF THE SIEMENS PRODUCTS AND SERVICES TO CONFORM TO ITS RESPECTIVE WARRANTY DURING THE APPLICABLE WARRANTY PERIOD SIEMENS' LIABILITY SHALL IN NO CASE EXCEED SIEMENS' OBLIGATION TO PERFORM THE REMEDIES SPECIFIED IN ARTICLE 10, AS APPLICABLE, WHICH SIEMENS WOULD HAVE HAD TO PERFORM IF SUCH REMEDY HAD BEEN CARRIED OUT IMMEDIATELY PRIOR TO THE OCCURRENCE OF THE PHYSICAL LOSS OR DAMAGE.

12. PATENT AND COPYRIGHT INFRINGEMENT.

Siemens will, at its own option and expense, defend or settle any suit or proceeding brought against Buyer based on an allegation that any processes performed by Siemens in connection with the Siemens Products and Services constitutes an infringement of any Patent Cooperation Treaty ("PCT") country member's patent or misappropriation of a third party's trade secret or copyright in the country where the Buyer's Site is located. Buyer will promptly give Siemens written notice of the suit or proceeding and the authority, information, and assistance needed to defend the claims. Siemens shall have full and exclusive authority to defend and settle such claim and will pay the damages and costs awarded against Siemens in any suit or proceeding so defended. Buyer shall not make any admission(s) which might be prejudicial to Siemens and shall not enter into a settlement without Siemens' consent. If and to the extent any process performed by Siemens in connection with the Siemens Products and Services as a result of any suit or proceeding so defended is held to constitute infringement or its use by Buyer is enjoined, Siemens will, at its option and expense, either: (i) procure for Buyer the right to continue using said process; (ii) replace it with substantially equivalent non-infringing process; or (iii) modify the process so its use is non-infringing.

Siemens will have no duty or obligation under this Article 12 if the process is: (i) performed according to Buyer's design or instructions and compliance therewith has caused Siemens to deviate from its normal course of performance; (ii) modified by Buyer or its contractors after performance; or (iii) combined by Buyer or its contractors with devices, methods, systems or processes not furnished hereunder and by reason of said design, instruction, modification, or combination a suit is brought against Buyer. In addition, if by reason of such design, instruction, modification or combination, a suit or proceeding is brought against Siemens, Buyer must protect Siemens in the same manner and to the same extent that Siemens has agreed to protect Buyer under this Article 12.

THIS ARTICLE 12 IS AN EXCLUSIVE STATEMENT OF SIEMENS' DUTIES AND BUYER'S REMEDIES RELATING TO PATENTS, TRADE SECRETS AND COPYRIGHTS, AND DIRECT OR CONTRIBUTORY INFRINGEMENT THEREOF.

13. CONFIDENTIALITY.

(a) Both during and after the term of this Agreement, the parties will treat as confidential all information obtained from the disclosing party and all information compiled or generated by the disclosing party under this Agreement for the receiving party, including but not limited to business information, the quotation, the Agreement, processes and procedures, know-how, methods and techniques employed by Siemens in connection with the Siemens Products and Services, technical data, drawings, flow charts, program listings, software code, and other software, plans and projections. Neither party may disclose or refer to the Siemens Products and Services to be performed under this Agreement in any manner that identifies the other party without advance written permission. Except for security surveillance, the observing or recording of the Siemens Products and Services or any part thereof, whether by photographic, video or audio devices or in any other manner is prohibited. In the event any such prohibited observation or recording occurs, Siemens may (in addition to any other legal or equitable rights and remedies) stop the Services until Siemens has satisfied itself that the prohibited conduct has ceased, and in such event (a) the date of delivery or time for performance will be extended by a period of

time which Siemens determines necessary and (b) Buyer will reimburse Siemens for Siemens' and its Suppliers' additional costs and expenses resulting from such delay, including but not limited to any for demobilization or remobilization. Unless required by appropriate governmental authorities, neither party shall, without the prior written consent of the other party, issue any public statement, press release, publicity hand-out or other material relating to the Siemens Products and Services performed or installed on Buyer's Site or Equipment. However, Siemens has the right to share confidential information with its affiliate and subcontractors provided those recipients are subject to the same confidentiality obligations set forth herein.

(b) Nothing in this Agreement requires a party to treat as confidential any information which: (i) is or becomes generally known to the public, without the fault of the receiving party; (ii) is disclosed to the receiving party, without obligation of confidentiality, by a third party having the right to make such disclosure; (iii) was previously known to the receiving party, without obligation of confidentiality, which fact can be demonstrated by means of documents which are in the possession of the receiving party upon the date of this Agreement; or (iv) was independently developed by receiving party or its representatives, as evidenced by written records, without the use of discloser's confidential information, or (v) is required to be disclosed by law, except to the extent eligible for special treatment under an appropriate protective order, provided that the party required to disclose by law will promptly advise the originating party of any requirement to make such disclosure to allow the originating party the opportunity to obtain a protective order and assist the originating party in so doing.

(c) It is Siemens' policy not to unlawfully or improperly receive or use confidential information, including trade secrets, belonging to others. This policy precludes Siemens from obtaining, directly or indirectly from any employee, contractor, or other individual rendering services to Siemens confidential information of a prior employer, client or any other person which such employee, contractor, or individual is under an obligation not to disclose. Buyer agrees to abide by this policy.

(d) Siemens shall retain all intellectual property rights in the Siemens Products and Services, works, Siemens' documents, processes, Siemens' confidential information, and any design information and/or documents made by (or on behalf of) Siemens. Upon receipt of all fees, expenses and taxes due in respect of the relevant Siemens Products and Services, Siemens grants to the Buyer a non-transferable, non-exclusive, royalty-free license to copy, use and communicate Siemens' documents for the sole purpose of operation and maintenance of the facility upon which the Siemens Products and Services have been performed.

14. COMPLIANCE WITH LAWS. The parties agree to comply with all applicable laws and regulations.

15. CHANGES IN SIEMENS PRODUCTS AND SERVICES. No change will be made to the scope of Siemens Products and Services unless Buyer and Siemens agree in writing to the change and any resulting price, schedule or other contractual modifications. If any change to any law, rule, regulation, order, code, standard or requirement impacts Siemens' obligations or performance under this Agreement, Siemens shall be entitled to a change order for an equitable adjustment in the price and time of performance.

16. NON-WAIVER. Any waiver by a party of strict compliance with this Agreement must be in writing, and any failure by the parties to require strict compliance in one instance will not waive its right to insist on strict compliance thereafter.

17. MODIFICATION OF TERMS. These terms may only be modified by a written instrument signed by authorized representatives of both parties.

18. ASSIGNMENT. Neither party may assign all or part of this Agreement, or any rights or obligations under this Agreement without the prior written consent of the other; but either party may assign its rights and obligations, without recourse or consent to, any parent, wholly owned subsidiary or affiliate or affiliate's successor organization (whether as a result of reorganization, restructuring or sale of substantially all of a party's assets). However, Buyer shall not assign this Agreement to a competitor of Siemens; an entity in litigation with Siemens; or an entity lacking the financial capability to satisfy Buyer's obligations. Any assignee expressly assumes the performance of any obligation assigned. Siemens may grant a security interest in this Agreement and/or assign proceeds of this Agreement without Buyer's consent.

19. APPLICABLE LAW AND JURISDICTION. This Agreement is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.

Each party agrees that claims and disputes arising out of this Agreement must be decided exclusively in a federal or provincial court of competent jurisdiction located in a province in which either Buyer or Siemens maintains its principal place of business. Each party submits to the personal jurisdiction of such courts for the purpose of litigating any claims or disputes.

20. SEVERABILITY. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not in any way be affected or impaired. A court may modify the invalid, illegal or unenforceable provision to reflect, as closely as possible, the parties' original intent.

21. EXPORT/IMPORT COMPLIANCE. Buyer acknowledges that Siemens is required to comply with applicable export/import laws and regulations relating to the sale, export, import, transfer, assignment, disposal and use of the Products and information provided in the performance of the Services, including any export/import license requirements. Buyer agrees that such goods or information shall not at any time directly or indirectly be used, exported, imported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with any applicable Canadian or, to the extent permissible under Canadian law, U.S. export/import laws and regulations. Siemens' continuing performance hereunder is conditioned on compliance with such export/import laws and regulations at all times.

22. NUCLEAR. In the event the Siemens Products and Services provided under the Agreement are to be used in or performed at or are connected with in any manner a nuclear installation, the following conditions shall apply:

(a) Buyer will indemnify, defend and hold Siemens harmless, and waives and will require its insurers to waive all rights of recovery against Siemens, for any damage, loss, destruction, injury or death resulting from a "nuclear incident," as defined in the *Nuclear Liability and Compensation Act*, as amended, whether due to Siemens' negligence or any other act or omission.

(b) Third Party Property Protection: Buyer will indemnify and hold Siemens and its subcontractors harmless for any liability arising out of loss of or damage to property at the Site which arises out of a nuclear incident. In addition, Buyer shall obtain for the benefit of Siemens and its subcontractors, protection against liability for, arising out of, or resulting from damage to any property or equipment located at the Site which is used or intended for use by Buyer in connection with the operation of the nuclear power plant (including but not limited to fuel) and which is owned by parties other than Buyer.

(c) Decontamination: Buyer shall, without cost to Siemens, perform any required decontamination and health physics necessary for, related to or resulting from Siemens performance of its contractual obligations. This includes but is not limited to decontamination of any Siemens equipment or tools used in the performance thereof. Buyer shall provide documentation demonstrating that components or parts being returned to Siemens after such decontamination meet the requirements designated for unrestricted release.

23. SURVIVAL. The Articles entitled "Intellectual Property," "Limitation of Liability," "Indemnity," "Confidentiality," "Risk of Loss and Schedule," "Export/Import Compliance," and "Nuclear" survive any termination, expiration or cancellation of this Agreement.

24. SITE SAFETY. Buyer shall comply with all federal, provincial, and local safety regulations and standards applicable to the Site and to the Equipment and/or Product on which Siemens will perform the Services. Siemens shall not be obligated to commence or perform Services unless Buyer's Site complies with all applicable safety requirements. In the event Buyer's Site safety is non-compliant, Siemens may suspend the Services until such time as Buyer corrects the non-compliance. To the extent Siemens incurs additional time and expense as the result of Buyer's non-compliance, Siemens shall be entitled to an equitable adjustment in the schedule, price and other affected provisions of the Agreement.

25. ENVIRONMENTAL COMPLIANCE. To the extent that the performance of Services at the Site may involve the generation of hazardous waste as such term is defined under applicable federal laws or the laws of the province in which the Site is located and the rules or regulations issued thereunder as are now in effect or hereafter amended from time to time (such generated hazardous waste being herein referred to as "Hazardous Waste") shall apply.

Buyer shall at its expense and in accordance with all applicable federal, provincial and local laws, rules, regulations and ordinances (i) furnish Siemens with containers for Hazardous Waste, (ii) designate a storage area at the Site proximate to the Services where such containers are to be placed; and (iii) handle, store and dispose of Hazardous Waste. Buyer shall

reimburse Siemens for additional costs, if any, incurred in complying with any such laws, regulations, rules and/or ordinances.

Siemens shall have no responsibility or liability with regard to any Hazardous Waste which it does not know or have reason to know will be generated or released in the performance of the Services, and Buyer shall indemnify and hold Siemens harmless for all damages, losses, costs, liabilities, fines and penalties, (including reasonable attorneys' fees) related to pollution and environmental impairment arising from the Buyer's property, the Equipment or the Services.

26. ASBESTOS. The terms "Asbestos" and "Presumed Asbestos Containing Material" shall have the meanings set forth in United States Code of Federal Regulations Chapter 29 Section CFR 1926.1101 et seq., and "ACM" shall mean Asbestos and Asbestos containing materials.

(a) The Buyer warrants and represents that, in any areas which may be accessed by Siemens or its Suppliers, any ACM which is or is contained in thermal insulation or sprayed-on surfacing material is conspicuously and specifically marked as ACM, and any other ACM is in a lawful condition.

(b) Prior to Siemens' commencement of Services at any Site:

(i) The Buyer shall, at Buyer's expense remove all thermal insulation, sprayed-on surfacing material, and/or Presumed Asbestos Containing Material (any or all of the foregoing hereinafter "PACM"), and ACM which may be disturbed during or removal of which is required for the performance of the Services; and,

(ii) The Buyer shall ensure that any areas where any activities involving the abatement or removal of PACM or ACM shall be conspicuously identified, posted and isolated, all as required by applicable law.

BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT, IN PERFORMING THE SERVICES AND DISPATCHING EMPLOYEES TO WORK AREAS, SIEMENS IS RELYING UPON THE AGREEMENTS, WARRANTIES, AND REPRESENTATIONS MADE BY BUYER IN THIS ARTICLE 26. Without limiting its other rights and remedies, Siemens: (i) shall not be obligated to commence, and may stop any affected Services, unless and until it is fully satisfied that the Buyer is in compliance with this Article 26, and (ii) shall be entitled to an equitable adjustment in the schedule, price and other provisions of the Agreement resulting from Buyer's non-compliance.

(c) In no event shall Siemens be obligated to install, disturb, handle, or remove any PACM.

(d) Siemens makes no representation that it is licensed to abate ACM.

(e) Buyer shall defend, indemnify and hold Siemens harmless against any and all claims, demands, damages, losses, liabilities, fines, penalties, costs or expenses, including without limitation any clean up or remedial measures arising out of, connected with, or resulting from the Buyer's failure to comply with the provisions of this Article 26.

27. THIRD PARTY PARTS. Buyer warrants that any and all Third Party Parts which may be the subject of any Services shall (a) be fully compatible with the corresponding part, component, equipment or material of the Original Equipment Manufacturer ("OEM") in terms of form, fit, and function; (b) shall be timely provided to Siemens hereunder; and (c) shall be capable of installation in the same manner and within the same time as the corresponding OEM part, component, equipment, or material.

28. PRODUCT RETURNS. Prior to the return of any Product, Buyer must identify the Product or portion thereof and obtain written authorization and shipping instructions from Siemens. Siemens has the right, in its sole discretion, to permit or reject any such return. Siemens' authorization to return any Product to Siemens does not relieve Buyer of its obligation to pay for such Product. Upon receipt, inspection, and acceptance of the Product by Siemens, Siemens will issue a credit memo to Buyer, less applicable re-stocking fees. Siemens reserves the right to reject any hazardous material.

VERSICHARGE™ AC SERIES

Limited Warranty

November 2024

usa.siemens.com/versicharge

Limited Warranty Siemens Industry Inc., EMobility ("Siemens") has developed highly reliable EV Supply Equipment (EVSE), branded as VersiCharge (each individually or collectively the "VersiCharge EVSE"), that is designed to withstand normal operating conditions when used in compliance with the included Siemens Installation and Operations Manual. The Siemens limited warranty ("Limited Warranty") covers defects in workmanship and materials of the VersiCharge EVSE for a period of three (3) years (the "Warranty Period") from the date of registration of such VersiCharge EVSE by the original purchaser via the registration portal (usa.siemens.com/eMobilityCloud). The VersiCharge EVSE must be registered within 90 days of purchase to activate the Limited Warranty including the Siemens Care package. The Warranty Period may be extended up to two (2) additional years upon the payment of applicable fees in advance of the conclusion of the initial Warranty Period.

The Limited Warranty does not apply to, and Siemens will not be responsible for, any defect in or damage to any Siemens VersiCharge EVSE: (1) that has been misused, neglected, tampered with, altered, or otherwise damaged, either internally or externally; (2) that has been improperly installed, operated, handled or used, including use under conditions for which the product was not designed, use in an unsuitable environment, or use in a manner contrary to the Siemens Installation and Operations Manual or applicable laws or regulations; (3) that has been subjected to fire, water, generalized corrosion, biological infestations, acts of God, or input voltage that creates operating conditions beyond the maximum or minimum limits listed in the Siemens VersiCharge EVSE specifications, including high input voltage from generators or lightning strikes; (4) that has been subjected to damage caused by defects of other components of the electrical system or service; or (5) if the original identification markings (including trademark or serial number) of such VersiCharge EVSE have been defaced, altered, or removed. The Limited Warranty does not cover costs related to the removal or installation of the VersiCharge EVSE or troubleshooting of the customer's electrical systems.

During the Warranty Period, Siemens will replace the VersiCharge EVSE free of charge, provided Siemens through inspection establishes the existence of an issue covered by the Limited Warranty (the "Remedy"). Siemens will, at its option, use new and/or reconditioned parts in providing the Remedy. Siemens reserves the right to use parts or products of original or improved design in the Remedy VersiCharge EVSE. The Limited Warranty continues for the remainder of the original Warranty Period or ninety (90) days from the date of Siemens' return shipment of the repaired or replacement product, whichever is later.

The Limited Warranty covers both parts and labor necessary to provide a Remedy, but does not include labor costs related to uninstalling the VersiCharge EVSE or reinstalling the replacement

SIEMENS

product. The Limited Warranty also covers the costs of shipping Siemens VersiCharge EVSE's to Siemens (where Siemens has first issued a Return Merchandise Authorization ("RMA") number for such product) as well as the replacement product from Siemens to customer, via a non-expedited freight carrier selected by Siemens, to and from locations within the United States (including Alaska and Hawaii) and Canada only.

The Limited Warranty does not cover shipping damage or damage resulting from mishandling by the freight carrier. Where customer seeks to remedy damages caused by the freight carrier, such claims must be pursued directly against the freight carrier and not against Siemens. Siemens' obligations under this Limited Warranty are conditioned upon the customer's strict compliance with the following policy and procedure for the applicable VersiCharge EVSE:

The VersiCharge EVSE must be returned with a RMA number which customer must request from Siemens through the following website usa.siemens.com/createcase.

RMA request must include the following information: (1) Proof-of-purchase of the VersiCharge EVSE in the form of (a) the dated purchase receipt from a Siemens-authorized seller for the original purchase of the product at point of sale to the end user, or (b) the dated dealer invoice or purchase receipt showing original equipment manufacturer (OEM) status; (2) Model number; (3) Serial number; (4) Detailed description of the defect; and (5) Shipping address for return of the repaired or replacement product.

All VersiCharge EVSE's authorized for return must be returned in the original shipping container or other packaging that is equally protective of the product. The returned VersiCharge EVSE must not have been disassembled or modified without the prior written authorization of Siemens.

THE LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY SIEMENS AND, WHERE PERMITTED BY LAW, IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OR WARRANTIES AS TO THE ACCURACY, SUFFICIENCY OR SUITABILITY OF ANY TECHNICAL OR OTHER INFORMATION PROVIDED IN MANUALS OR OTHER DOCUMENTATION. IN NO EVENT WILL SIEMENS BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES, COSTS OR EXPENSES HOWEVER ARISING, WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION ANY ECONOMIC LOSSES OF ANY KIND, ANY LOSS OR DAMAGE TO PROPERTY, OR ANY PERSONAL INJURY AND SIEMENS' AND ITS SUPPLIERS' MAXIMUM LIABILITY UNDER THIS CONTRACT SHALL BE THE ACTUAL PURCHASE PRICE RECEIVED BY SIEMENS FOR THE VERSICHARGE EVSE AT ISSUE. CUSTOMER AGREES THAT THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS SECTION SHALL GOVERN AND CONTROL OVER ANY OTHER REMEDIES TO WHICH CUSTOMER MAY OTHERWISE BE ENTITLED AND SHALL BE GIVEN FULL FORCE AND EFFECT WHETHER OR NOT ANY OR ALL SUCH REMEDIES SHALL BE DEEMED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THESE LIMITATIONS OF LIABILITY ARE EFFECTIVE, EVEN IF SIEMENS HAS BEEN ADVISED BY THE CUSTOMER OF THE POSSIBILITY OF SUCH DAMAGES.

To the extent any implied warranties are required under applicable law to apply to the Siemens VersiCharge EVSE, such implied warranties shall, to the extent permitted by applicable law, be limited in duration to the Warranty Period. In states and provinces which do not allow limitations or exclusions on implied warranties or on the duration of an implied warranty or on the limitation or exclusion of incidental or consequential damages, the above limitation(s) or exclusion(s) may not

apply. This Limited Warranty gives the customer specific legal rights, which are the customer's exclusive remedies hereunder. The customer may have other rights that vary from state to state or province to province.

Through registration of the Limited Warranty or use of the VersiCharge EVSE, the parties irrevocably consent and agree that any controversy or claim arising out of or related to this Limited Warranty shall be resolved by arbitration pursuant to this Section and the then current rules and supervision of the American Arbitration Association. The arbitration shall be held in Delaware before a single arbitrator who is knowledgeable about commercial contract disputes. The arbitrator's decision and award shall be final and binding and may be entered in any court having jurisdiction thereof. The arbitrators shall apply and be bound to follow the substantive laws of the State of Delaware without regard to the conflict of laws provisions thereof. Costs and expenses shall be borne as provided by the rules of the American Arbitration Association. The arbitrators may order the parties to exchange copies of exhibits and copies of witness lists in advance of the arbitration hearing. However, the arbitrator shall have no other power to order discovery or depositions unless and then only to the extent that all parties otherwise agree in writing.

Legal Manufacturer

Siemens Industry, Inc.
3617 Parkway Ln
Peachtree Corners, GA 30092
United States of America

Telephone: (855) 950-6339, option 9, or visit
emobility.usa.siemens.com/s/eMobilityCloud for service,
questions or inquiries

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The Siemens logo, consisting of the word "SIEMENS" in a bold, blue, sans-serif typeface.

HELIOX WARRANTY TERMS AND CONDITIONS

1. APPLICABILITY

1.1 These Warranty Terms and Conditions ("**WTC**") apply next to and are complimentary to the Heliox General Terms and Conditions of Sales, unless otherwise agreed with the customer (the "**Customer**") in the sales agreement (a "**Sales Agreement**").

1.2 These WTC apply to: i) all stationary charger systems and depot chargers, specific components, materials and equipment required for the integration and/or connection of the Chargers to the existing and/or available infrastructure and/or utilities on site, hereinafter together referred to as "**Charger Systems**"; ii) all mobile chargers ("**Mobile Chargers**"); (Charger Systems and Mobile Chargers together hereinafter referred to as the "**Chargers**"), sold and delivered by Heliox under a Sales Agreement with a Customer.

1.3 Unless defined elsewhere in these WTC, in these WTC capitalized terms shall have the following meaning:

- "**Charging Session**" an Electric Vehicle charging session with a Charger starting upon initiation of such charging session and ending when the termination request for such charging session is made;
- "**Electric Vehicle**" means a vehicle that uses one or more electric motors or traction motors for propulsion, which uses the Chargers solely for charging.
- "**Qualified Person**" means a person under Customer's supervision and control who is professionally qualified to store, use, operate and maintain the Chargers; for the installation, a Qualified Person should be trained by Heliox.
- "**Warranty Services**" means repair or replacement services performed by Heliox after the acceptance of a Warranty Claim.

1.4 In case of any contradiction between the provisions of these WTC and the provisions of the Sales Agreement, the provisions of the Sales Agreement shall prevail.

2. WARRANTY AND WARRANTY PERIOD

2.1 Subject to the exclusions and limitations described in **article 4**, Heliox warrants that Chargers shall be delivered free of defects in materials and workmanship (the "**Warranty**").

2.2 The Warranty shall end:

- For Charger Systems: after expiration of a period of 24 (twenty four) months as of the date of delivery of the Charger Systems in accordance with the Sales Agreement, or, in the event of an Charger System: any earlier on the date that the charger has performed 3.000 (three thousand) Charging Sessions (the "**Charger System Warranty Period**"). For Mobile Chargers: after expiration of 12 (twelve) months as of the date of delivery of the Mobile Charger in accordance with the Sales Agreement or any earlier on the date that the Mobile Charger has performed 1.000 (thousand) Charging Sessions (the "**Mobile Charger Warranty Period**").

The Charger System Warranty Period and the Mobile Charger Warranty Period together hereinafter referred to as the "**Warranty Period**".

3. WARRANTY PROCEDURE AND CONDITIONS

3.1 To obtain Warranty Services pursuant to these WTC, Customer must strictly adhere to the following procedure. If

Customer fails to comply with the terms of this procedure the Warranty shall become null and void.

3.2 If a non-conformity to the Warranty is discovered during the Warranty Period, Customer shall promptly (ultimately within 10 (ten) days after such discovery) notify Heliox in writing of the alleged non-conformity (a "**Warranty Claim**"). Each Warranty Claim shall include:

- Notification of Warranty Claim;
- Proof of purchase;
- Name and contract information;
- Description of the Chargers;
- Serial number of the Charger;
- Location of the Charger;
- Description of the non-conformity; and

The Warranty Claim shall be sent to the following address:

service.na@heliox-energy.com.

3.3 Customer shall not return or dispose any Charger (parts) with respect to which it intends to make a Warranty Claim, without Heliox's express prior written authorization.

3.4 Heliox shall, within a reasonable time, examine the Warranty Claim (either through remote access or through a visit to Customer's site where the Charger is located (the "**Site**") and inform Customer if Heliox accepts such Warranty Claim.

3.5 The performance of Warranty Services by Heliox under this WTC shall not extend or renew the original Warranty Period.

3.6 Heliox shall only bear the costs of any replacement parts, the transportation costs hereof to Customer and all direct labor costs in accordance with the Warranty Services under an accepted and justified Warranty Claim. All other costs, expenses and charges in connection with the Warranty Services, such as but not limited to costs, expenses and charges related to (de-)installation, decontamination, re- installation and transportation of non-conforming Chargers or parts thereof to Heliox and back to Customer, removal and replacement of other systems, structures or other parts of the Site, temporary power, travelling and lodging expenses from Heliox's employees and/or sub-contractors and legal and remedial costs shall be for Customer's risk and expense, unless Heliox and Customer have agreed upon otherwise in the Sales Agreement.

3.7 Heliox's total warranty costs, charges and expenses with respect to the Warranty Services to be performed under these WTC shall be limited to a maximum of the original purchase price of the Chargers as mentioned in the Sales Agreement. Any surplus shall be borne by Customer.

3.8 The costs in connection with an unaccepted and unjustified Warranty Claim of Customer shall be borne entirely by Customer.

3.9 If Customer transfers the ownership of the Chargers to an end-user and Heliox approves in writing with the transfer of the related rights and obligations of Customer under these WTC to such end-user, Customer shall pass on to its end-user in full the terms and conditions of these WTC, including the exclusions and limitations set forth herein. In the event that Customer extends or otherwise represents to an end-user that the warranties are more extensive or encompassing than those set forth herein, Customer shall indemnify Heliox for any warranty claims made by an end-user based on Customer's representations.

4. FAIR USE POLICY

4.1 The Warranty provided by Heliox is based on the following fair use policy conditions (**Fair Use Policy**):

Standard climate/environmental conditions Chargers designed for (as further detailed in Charger leaflet):

- Temperature range:
 - -20 to 40°C
 - Environmental : ISO 12944 C4
 - ANSI/ASI 12.12.1
 - Non-hazardous or non-explosive proof (ATEX/NEC)
- Protection : EN 60529 IP54
 - : EN 62262 IK10
 - (IK8 for screens).

4.2 Any costs related to the usage of the Chargers deviating from the Fair Use Policy are not covered in the Warranty. Temperature range does not include impact of solar loading; for Chargers that operate in the upper bandwidth of this temperature range, provision of appropriate sun covers/shielding is responsibility of the Customer.

5. WARRANTY EXCLUSIONS AND LIMITATIONS

5.1 The Warranty does explicitly not include nor cover the following responsibilities, activities, services, failures or obligations (**Excluded Failure**). In case of a non-conformity of the Warranty is caused by an Excluded Failure, the Warranty shall be null and void:

- 5.1.1. Responsibility for any 3rd party back office installed for use with the Chargers, and any defective information and/or defective charger operations resulting from the use of such 3rd party back office;
- 5.1.2. The provision of new functional Software features;
- 5.1.3. The provision of the Warranty Services on a location not approved by Heliox (for instance, if the Mobile Chargers are moved to different locations);
- 5.1.4. Defects or failures arising from:
 - Customer's failure to use the Chargers properly, including but not limited to non-standard usage and usage conflicting with the instructions or manuals provided by Heliox, and the Fair Use Policy;
 - use or operation of the Chargers by any person not being a Qualified Person;
- 5.1.5. Defects or failures arising from abnormal or improper operational conditions, excessive hot or cold temperatures, dust, accident, abuse, vandalism, damage, misuse, or use by Customer of parts not supplied or approved by Heliox;
- 5.1.6. Defects or failures, arising from any unnecessary activation of the emergency stop of the Charger;
- 5.1.7. Replacement of equipment at or nearing scheduled overhaul (check product manual for more detail);
- 5.1.8. Modifications repair, maintenance or alterations made to the Chargers by Customer or a third party (including the end-user) without Heliox' prior written consent;
- 5.1.9. Defects or failures arising from improper installation of the Chargers by Customer or by a third party on behalf of the Customer or by the Customer itself;
- 5.1.10. Any de-energisation of the grid connection (such as grid connection outage for a period of hours) or any other interruption to the supply of electricity from the local grid to the Chargers, including any constraint imposed by the operator of the public electricity distribution system, which results in a reduction in

the amount of electricity which can be imported from the local grid via the grid connection;

- 5.1.11. Any defect or failure caused by the electric vehicle (including its battery);
 - 5.1.12. Any issue related to interoperability of any Electric Vehicle with the Charger;
 - 5.1.13. Any defect or failure caused by the use of the Charger in connection with Electric Vehicles which are not compatible/interoperable with the Charger;
 - 5.1.14. Any operational issue arising from a(n) update to the bus/platform or back office software not supplied by Heliox causing the Charger to not function adequately;
 - 5.1.15. Any external factors effecting the Charger while in the Customer's possession, including unusual physical or electrical stress such as power surges, uncontrolled voltages and currents, system harmonics, lightning, flood, fire, exposure to excessive hot or cold temperatures, or accidents.
- 5.2 Warranty Claims will furthermore not be accepted if Customer has not kept and shared with Heliox accurate and complete records of operation and maintenance of the Chargers during the Warranty Period and/or refuses to permit Heliox to examine the Chargers and operating data to determine the nature of the Warranty Claim.
- 5.3 General appearance or damage to paint, including chips, scratches, dents and cracks are not covered by this Warranty.
- 5.4 If Heliox performs or has performed Warranty Services in circumstances where it is established that the Warranty Claim was caused by an Excluded Failure, then these shall be excluded from the Warranty and Heliox may charge, and the Customer shall pay, the related additional charges.
- 5.5 If Heliox's investigation reasonably shows that any defect in or malfunctioning of the Charger is the result of an Excluded Failure, the Customer shall pay the related additional charges in respect of the time incurred by Heliox in making the investigation and determining the cause of the defect in or malfunctioning of the Charger.

6. FORCE MAJEURE

Heliox shall not be obliged to accept a Warranty Claims or perform Warranty Services, in case of Act of God, directive of Government or of persons purporting to act therefore, legislation, pandemic, epidemic, lock down, war, civil disturbance, fire, drought, failure of power supply, explosion, riot, disturbances or standstill of essential production equipment, flood, earthquake, lock-out, transportation issues, shortage of essential raw materials, strike or other action taken by employees in contemplation of or furtherance of a trade dispute or owing to any liability to procure materials or force majeure of any other nature, including non- or late delivery due to non- or late fulfilment of obligations of subcontractors of Heliox or transportation companies engaged by Heliox and/or solvency and/or liquidity issues and/or bankruptcy of third parties engaged by Heliox, in so far as any of these circumstances prevent Heliox's performance of its obligations set out in these WTC.

7. DISCLAIMER

The Warranties as set out in these WTC are exclusive and in lieu of any other warranties, whether statutory, oral, written, express or implied, including, but not limited to, merchantability or fitness for a particular purpose, durability, or those arising by a course of dealing or usage of trade, to the fullest extent allowed by applicable law. Customer's exclusive

remedies and Heliox's only obligation arising out of or in connection with defective Chargers, whether based on Warranty, contract, tort (including negligence) or otherwise, shall be those stated herein.

8. GOVERNING LAW AND DISPUTES

These WTC are exclusively governed the laws of the state of Delaware, with the exclusion of the Vienna Sales Convention. Any dispute or claim arising from or in connection with these WTC or its subject matter (including any question regarding its existence, validity or termination) shall be submitted to the competent courts of the state of Delaware. However in case Heliox is the plaintiff, Heliox may at its sole discretion submit any such dispute either to the competent courts in the venue of Customer's registered office. Customer hereby irrevocably waives any objection to the jurisdiction, process and venue of any such court and to the effectiveness, execution and enforcement of any order or judgement (including but not limited to a default judgment) of any such court in relation to these WTC, to the maximum extent permitted by the law of any jurisdiction, the laws of which might be claimed to be applicable regarding the effectiveness, enforcement or execution of such order or judgment.