**TOPLEADER USA LLC**

**STANDARD TERMS AND CONDITIONS OF SALE**

**(INCLUDING WARRANTY)**

**EFFECTIVE 7/1/22**

These standard terms and conditions of sale (“Terms and Conditions”) apply to any and all orders placed by purchaser for purchases of products from and after June 1 2022, whether or not such purchase is subject to a signed purchase order, distribution or other agreement between Supplier and Purchaser. These Terms and Conditions may be updated by Minleon, by addendum to this Agreement, from time to time. Ordering Product from Supplier constitutes acceptance of the terms set forth herein. Any different, conflicting, or additional terms in any purchase order or other writing from Purchaser is hereby expressly objected to and rejected and shall be of no force or effect, unless expressly and specifically agreed to by both parties in writing.

**ORDERS; CHANGES AND CANCELLATIONS**

All orders must be placed in writing and delivered directly to Supplier from the Purchaser. No order is final until accepted by Supplier via an Order Confirmation. After acceptance, requests to cancel or change orders must be submitted in writing by Purchaser to Supplier.

**PRICING**

All prices represent those in effect at the time of quotation and are subject to change without notice. Unless prices are quoted as “firm” by an officer of Topleader.

**TERMS OF PAYMENT**

Unless otherwise stated in Purchaser’s invoice or agreed to in writing by the parties, terms of payment for orders will be as follows:

1. China-Direct Factory Container Price (FOB Purchaser location) - 30% upon order and 40% upon shipment, balance 30 days from receipt of product.
2. Domestic Warehouse – Net 30

 Unless otherwise agreed to, Supplier’s payment shall be wire transfer to Supplier’s account at a commercial bank designated by Supplier.

**SALES MATERIALS**

Any catalog, price sheet, product specification, or other similar documentation prepared by Supplier, in both paper and electronic form, is strictly for the convenience of the user and shall not be deemed as an offer to sell. Supplier believes such documentation is complete and accurate at time of printing, but does not warrant they are error free. Catalogs, price sheets and website documentation are not offers to sell and possession of them does not entitle one to purchase Product from Supplier.

**TAXES AND GOVERNMENTAL CHARGES**

Prices do not include any taxes or other governmental charges, including, without limitation, value-added, sales, use or privileges taxes, required governmental withholdings or excise or similar taxes levied by any government, now or hereafter enacted. Purchaser is responsible for all such taxes and charges.

**PRODUCT ACCEPTANCE**

Product will be deemed to have been accepted by Purchaser upon delivery of said Product to Purchaser. Purchaser has seven (10) days following delivery to perform all necessary tests and inspections and report any discrepancy in shipment quantity, after which time Purchaser will be deemed to have irrevocably accepted the Product. (See also Limited Warranty section of below)

**FORCE MAJEURE**

Supplier assumes no liability in connection with any failure to manufacture or deliver due to causes beyond Purchaser’s reasonable control including inadequate transportation services, inability to secure raw materials, components or supplies, acts of God, fire, strikes, lockouts, or other labor disturbances, orders or acts of authority, or any cause of similar or different kind.

**RETURNS**

No Product will be accepted for return and no repair or replacement will be made or credit be allowed on any Product returned unless such return has been approved in advance, in writing, by a Purchaser Manager

**LIMITED WARRANTY**

Supplier warrants to Purchaser that each Product will be free from any defect in materials and workmanship which cause the Product to fail to operate in accordance with Purchaser’s published specifications for such Product as in effect on the date of shipment. The foregoing warranty is valid for one year from the date of Purchaser’s receipt of product from Supplier.

If a Product fails to operate in accordance with this warranty, Supplier will, at its option, repair or replace the Product or the defective part thereof, or credit Purchaser for the purchase price thereof (less a provision for normal wear-and-tear), subject to the limited warranty terms and conditions set forth herein. For purposes of clarity, “repair or replace the Product or the defective part thereof” does not include any removal or reinstallation costs or expenses, including without limitation labor costs or expenses. If Supplier chooses to replace the Product and is not able to do so because it has been discontinued or is not available, Supplier may replace it with a comparable product.

Supplier shall have no liability under this warranty unless Supplier is notified in writing promptly upon Purchaser’s discovery of the defect and the defective items are returned to Supplier, freight prepaid, and received by Supplier not later than thirty (30) days after expiration of the warranty period. This warranty shall not apply to any defect or failure to perform resulting from misapplication, improper installation, improper wiring designs, improper operation, lack of product knowledge, abuse or contamination, whether internal or external and only applies when the Product has been properly wired and installed and operated within the electrical values, operating ranges and environmental conditions provided in the specifications or installation instructions for such Product. This warranty does not apply to damage or failure to perform arising as a result of any Acts of God or from any abuse, misuse, stress, or abnormal strain or use, or use in violation of any applicable standard, code or instructions for use including those contained in the latest National Electrical Code, the Standards for Safety of Underwriters Laboratory, Inc., the Standards for the American National Standards Institute or, in Canada, the Canadian Standards Association. Supplier shall have no liability of any kind for failure of any equipment or other items in which the Product are incorporated. This warranty shall become void in the event any repairs or alterations not duly authorized by Supplier in writing are made to the Product by any person.

In the event Purchaser requests Supplier to research, review or otherwise determine whether related product failures are due to Supplier product deficiencies or something other, Supplier will make that determination, and in the case where Supplier product is deficient, Supplier will correct as allowed for within this document. In all other cases Supplier will charge the Purchaser for reasonable costs incurred during the request for research, review and determination. Purchaser agrees to pay charges, including but not limited to; all travel-related expenses, cost of time of all technical and non-technical personnel required to research, review and make determinations, at fair market value rates.

As a no-charge service to the Purchaser, Supplier (and/or it’s designee) may offer assistance and advice to Purchaser in the design (wiring, preferred components and the like) of product configuration. In the event the Purchaser accepts this offer, Purchaser agrees and understands the responsibility for a proper product configuration design remains with the Purchaser and said responsibility is not conveyed to the Supplier as a result of the Supplier offering and Purchaser accepting this no-charge service. In the event the Purchaser desires conveyance of the product configuration design responsibility to a third party, Supplier will provide Purchaser with a list of known installers and other related professionals for which Purchaser can solicit for said services.

As Supplier provides training sessions and documentation on preferred methods and techniques product install configurations of Supplier product, and Purchaser participates in the sessions and/or reviews the documentation offered, Purchaser understands these sessions and documentation are general and generic in nature and may not be applicable to a specific install Project of the Purchaser; and therefore, Purchaser must obtain the specific knowledge needed to assure for a successful installation for each product purchased.

Seller assumes no responsibility for, damage or defects arising as a result of misuse, improper installation by anyone other than authorized Top Leader USA personnel, accident, neglect, modification, repair by Buyer, subjection to adverse conditions, demands exceeding performance levels required by applicable specifications or operating instructions furnished by Seller, failure to carry out recommended servicing, or from the use of components or replacement parts other than those supplied or approved in writing by Seller.

ANY INSTALLATION, MAINTENANCE, REPAIR, SERVICE, RELOCATION OR ALTERATION TO OR OF, OR OTHER TAMPERING WITH, THE EQUIPMENT PERFORMED BY ANY PERSON OR ENTITY NOT AUTHORIZED AND TRAINED BY SELLER, WITHOUT SELLER'S PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACEMENT PARTS NOT SUPPLIED BY SELLER, SHALL IMMEDIATELY VOID AND CANCEL ANY WARRANTIES WITH RESPECT TO THE PRODUCT.

If Buyer elects to install the Equipment itself, Buyer agrees to follow any instructions from Seller and incorporate all accessory parts mandated by Seller. Notwithstanding its compliance with the foregoing provision, Buyer shall indemnify and hold harmless Seller from and against any and all liability, damages, costs, losses and expenses arising out of or in connection with any personal injury, including death, or any damage to property or business resulting from Buyer’s improper installation, use, maintenance or repair of the Equipment.

Warranty extends only to initial Purchaser and is not transferable.

THE FOREGOING WARRANTY PROVISIONS ARE EXCLUSIVE AND ARE GIVEN AND ACCEPTED IN LIEU OF AND SUPPLIER HEREBY EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY AGAINST INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. An essential purpose of the limited exclusive liabilities and remedies in this warranty is allocation of risks between Supplier and Purchaser, which allocation of risks is reflected in the purchase price for the Product. UNDER NO CIRCUMSTANCES SHALL SUPPLIER’S LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND CONDITIONS OR SUPPLIER’S PERFORMANCE OR ASSERTED FAILURE TO PERFORM HEREUNDER, IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE PURCHASE PRICE OF THE PRODUCT TO WHICH SUCH LIABILITY RELATES. IN NO EVENT SHALL SUPPLIER BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM LOSS OF USE, PROFITS, BUSINESS OR GOODWILL, WHETHER OR NOT SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. No warranty or agreement varying or extending the foregoing warranty and limitation of remedy provisions may be relied upon by Purchaser unless it is in writing and signed by Supplier’s Manager. No representation or affirmation of Supplier, whether by words or action, shall be construed as a warranty. If any model or sample was shown to Purchaser, such model or sample was used merely to illustrate the general type and quality of the Product and not to represent that the Product would necessarily conform to the model or sample.

 With respect to Product sold to Purchaser by Supplier but not bearing Supplier’s name or sub-brand name, Supplier makes no warranty of any kind, express or implied, including, without limitation, any warranty of merchantability or fitness for a particular purpose, but will make available to Purchaser upon request but only to the extent permitted by law and relevant contracts, the warranties of Supplier of the relevant product.

**INDEMNIFICATION**

Purchaser shall indemnify, defend and hold harmless Supplier and its officers, directors, agents, employees, affiliates, successors, and assigns from and against all losses, liabilities, costs and expenses arising out of or in connection with any claim by third parties for any loss, damage or injury or death caused or alleged to be caused by: (a) the negligent use, application, or installation of Product by Purchaser or its employees, partners to whom Purchaser sold Product, contractors, agents or affiliates, (collectively, “Purchaser Parties”); or (b) the modification of Product or integration of Product into other products by any of the Purchaser Parties unless authorized in writing by Supplier. Purchaser shall not join, settle or otherwise attempt to affect or dispose of any such claim without Supplier’s written consent.

**SOFTWARE LICENSE**

Any software included with a Product, is licensed and not sold. The license is nonexclusive and is limited to use with the Product. No other use is permitted and Supplier retains for itself (or, if applicable, its suppliers) all title and ownership to any software delivered hereunder, all of which contains confidential and proprietary information and which ownership includes, without limitation, all rights in patents, copyrights, trademarks and trade secrets. Purchaser shall not sell, transfer, sublicense, reverse engineer or disassemble or redistribute the software. Purchaser shall not copy, disclose, or display any such software or otherwise make it available to others.

**APPLICABLE LAW**

The law applicable to sales in the United States under these Terms and Conditions shall be Article 2 of the Uniform Commercial Code as applicable to the state of destination. The United Nations Convention on Contracts for the International Sales of Goods is hereby excluded and shall not apply.

END 6/30/22