

## Orange EV Sourcing Terms and Conditions

By accepting a Purchase Order from Orange EV LLC (“OEV”) or delivering equipment, products, or items (“Goods”) to OEV, you (“Seller”) agree that all aspects of the transaction, sale, or use of the Goods shall be governed by these terms and conditions.

**1. Sale of Goods.** The Seller will sell, transfer and deliver to OEV the goods as detailed in Exhibit A (“Goods”). Furthermore, any change to the Goods during the term of this Agreement Seller shall provide OEV 180 days’ notice (including details of the change) of such change to the Goods

**2. Purchase Price.** The Goods are provided at the price agreed to in OEV’s purchase order (“Purchase Price”).

The Seller and OEV both acknowledge the sufficiency of this consideration. In addition to the Purchase Price specified in this Agreement, the amount of any present or future use, excise, or similar tax applicable to the sale of the Goods will be paid by OEV, or alternatively, OEV will provide the Seller with a tax exemption certificate acceptable to the applicable taxing authorities.

The Purchase Price is inclusive of sales tax and is payable by OEV unless OEV provides the Seller with a tax exemption certificate acceptable to the applicable taxing authorities, in which case the amount of sales tax will be subtracted from the Purchase Price payable by OEV.

**3. Order Confirmation.** Upon OEV’s submittal of a purchase order, such purchase order must be confirmed within 48 hours with a firm ship date to become effective.

**4. Payment.** The OEV will make payment for the Goods within 45 days of the date of delivery to OEV’s designated carrier.

**5. Risk of Loss.** If Seller is responsible for shipping, the risk of loss from any casualty to the Goods, regardless of the cause, will be on the Seller until the Goods have been received and inspected by OEV.

**6. Warranties.** The Seller warrants that: (1) the Seller is the legal owner of the Goods; (2) the Seller has the right to sell the Goods; and (3) the Seller will warrant and defend the title of the Goods against any and all claims and demands of all persons.

The Seller warrants that the Goods will be fit for the purpose for which such goods are ordinarily intended. Furthermore, the seller warrants the the Goods will comply with all specifications for 12 months from the date of install in OEV’s equipment.

The Seller warrants that the Goods are now free and at the time of delivery will be free from any security interest or other lien or encumbrance, except the security interest created in this Agreement until the Seller is paid in full.

The Seller warrants that the Goods will be delivered free of the rightful claim of any person arising from patent or trademark infringement.

EXCEPT FOR THE ABOVE WARRANTIES, NO OTHER WARRANTY (WHETHER EXPRESSED, IMPLIED OR STATUTORY) IS MADE BY THE SELLER REGARDING THE GOODS. The Seller's above disclaimer of warranties does not, in any way, affect the terms of any applicable warranties from the manufacturer of the Goods.

OEV's remedy for breach of warranty includes, at OEV's sole discretion, repair of the non-conformance, replacement of the non-conforming Goods or refund of payments made for the non-conforming Goods (including all shipping charges, taxes and any other costs paid by OEV in relation to the non-conforming Goods), these remedies do not preclude OEV from pursuing any other legal or equitable remedy available to OEV.

**7. Title.** Title to the Goods will remain with the Seller until inspection and acceptance of the Goods by OEV.

**8. Inspection.** Inspection will be made by OEV at the time and place of delivery.

Upon discovery of a non-conformance prior to OEV's installation of the Goods in OEV's equipment, OEV shall be entitled to immediate replacement of any non-conforming Goods.

If, after initial inspection and acceptance, OEV discovers a quality issue and/or non-conformity, Seller has 72 hours to determine a root cause of the quality issue and/or non-conformance and has 8 days from notice of quality issue and/or non-conformity to provide a corrective measure.

**9. Excuse for Delay or Failure to Perform.** The Seller will not be liable in any way for any delay, non-delivery or default in shipment due to labor disputes, transportation shortage, fires, accidents and other causes beyond the control of the Seller or its suppliers. If the Seller, in its sole judgment, will be prevented directly or indirectly, on account of any cause beyond its control, from delivering the Goods at the time specified or within one month after the date of this Agreement, then the Seller will have the right to terminate this Agreement by notice in writing to OEV, which notice will be accompanied by full refund of all sums paid by OEV pursuant to this Agreement.

**10. Damages.** Neither party shall be liable to the other party for any special, indirect or consequential damage related to a claim against the other party (even if the a party has been made aware of the potential for such damages including loss of business, reputation damage or work stoppage).

**11. Cancellation.** The OEV reserves the right to cancel this Agreement:

- if the Seller is in breach of this Agreement; or
- in the event of the Seller's insolvency or bankruptcy.

**12. Changes.** OEV retains the right, at its sole discretion, to modify delivery dates and quantities on a purchase order upon 60-day notice to the Seller based on changes in demand,

manufacturability, and engineering development. If a part is designed by OEV, then OEV retains the right to revise or modify said design upon 60-day notice to the Seller.

**13. Notices.** Any notice to be given or document to be delivered to either the Seller or OEV pursuant to this Agreement will be sufficient if delivered personally or sent by prepaid registered mail to the address specified below. Any written notice or delivery of documents will have been given, made and received on the day of delivery if delivered personally, or on the third (3rd) consecutive business day next following the date of mailing if sent by prepaid registered mail:

SELLER:

the address provided on Seller's invoice

OEV:

Orange EV LLC of 5710 NW 41st, St., Ste. 300, Riverside MO 64150

**14. Mediation and Arbitration.** If any dispute relating to this Agreement between the Seller and OEV is not resolved through informal discussion within 14 days from the date a dispute arises, the parties agree to submit the issue first before a non-binding mediator and to an arbitrator in the event that mediation fails. The decision of the arbitrator will be binding on the parties. Any mediator or arbitrator must be a neutral party acceptable to both the Seller and OEV. The cost of any mediations or arbitration will be shared equally by the parties.

**15. General Provisions.** Headings are inserted for convenience only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

All representations and warranties of the Seller contained in this Agreement will survive the closing of this Agreement.

Either party to this Agreement may assign its rights under this Agreement, but the assignment will not change the duty of either party, increase the burden or risk involved, or impair the chances of obtaining the performance of the Agreement. However, no obligation for performance imposed on either party by this Agreement may be delegated to any other person without the prior written consent of the other party. Each party has a substantial interest in having the other party perform or control the acts required by this Agreement.

This Agreement cannot be modified in any way except in writing signed by all the parties to this Agreement.

This Agreement will be governed by and construed in accordance with the laws of the State of Missouri, including the Missouri Uniform Commercial Code and the Seller and OEV hereby attorn to the jurisdiction of the Courts of the State of Missouri.

Except where otherwise stated in this Agreement, all terms employed in this Agreement will have the same definition as set forth in the Uniform Commercial Code in effect in the State of Missouri on the date of execution of this Agreement.

If any clause of this Agreement is held unconscionable by any court of competent jurisdiction, arbitration panel or other official finder of fact, the clause will be deleted from this Agreement and the balance of this Agreement will remain in full force and effect.

This Agreement will inure to the benefit of and be binding upon the Seller and OEV and their respective successors and assigns.

This Agreement may be executed in counterparts. Facsimile signatures are binding and are considered to be original signatures.

Time is of the essence in this Agreement.

This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise. The OEV acknowledges that it has not relied upon any representations of the Seller as to prospective performance of the Goods, but has relied upon its own inspection and investigation of the subject matter.