



The *Commercial Terms and Conditions of Sale* of Lightning Eliminators & Consultants (“LEC”) govern the sale of all LEC products and services to customers, unless otherwise agreed to by LEC in writing. These *Commercial Terms and Conditions of Sale* apply to direct commercial purchases and commercial end-users that purchase through a reseller. By placing your order, acquiring an LEC product or service, or using an LEC product or service, you accept and are bound to the *Commercial Terms and Conditions of Sale* as stated below.

1. Agreement.

- A. Agreement. LEC’s sales of Products and Services, as well as its performance of Services, are subject to the terms of this agreement between you (“**You**” or “**Customer**”) and LEC (the “**Agreement**”). LEC means Lightning Eliminators & Consultants, Inc. Customer shall include any of your affiliates, agents, or representatives who place an LEC order.
- B. Products and Services. “**Products**” means any LEC product, including Standard Products (which are those items set forth in LEC’s current published price list which are sold without modification) and Customized Products (products, systems, or solutions that have been specially designed or manufactured for a specific customer or project). “**Services**” means any consulting, maintenance, inspection, recertification, installation, design, planning, testing, training, or any other service provided to you by LEC that may be described in a Quote, Invoice, Purchase Agreement, or other similar document.
- C. Contract Documents. This Agreement, together with any Quote, Invoice, Purchase Agreement, or other related document agreed to by LEC in writing, form a legally binding contract between you and LEC in relation to your purchase and use of Products and Services, and LEC’s performance of Services. In the event of a conflict between these agreements, the terms of these documents will be interpreted in the following order of precedence: (1) Quotation; (2) Invoice; (3) Purchase Agreement; and (4) these *Commercial Terms and Conditions of Sale*. Customer’s additional or different terms and conditions shall not apply.

2. Order; Prices; Quotations; Taxes.

- A. Acceptance of Order by LEC. An order for Products or Services is subject to acceptance by LEC, in LEC’s sole discretion.
- B. Prices. Except for services and customized products, the prices for Standard Products are stated in LEC’s most recent published Price List. LEC may change the prices on the Price List without notice. Unless otherwise agreed to in writing by LEC, all prices quoted are exclusive of all taxes (except taxes levied against LEC’s income), including state and local use, sales, property (ad valorem), and similar taxes. The prices stated in the Price List on the date that LEC accepts the order will apply unless otherwise provided in a written Quotation from LEC.

- C. Quotations. Unless otherwise agreed to in writing by LEC, any price stated in a written Quotation shall not change unless: (a) the Customer has not accepted the Quotation within 90 days of the date of the Quotation; or (b) the Customer has not agreed to accept delivery of the products within 180 days of the date of LEC's acceptance of the order, as indicated on the Invoice. If these conditions are not met, the Quotation shall expire and LEC has no obligation to offer the Products or Services at the price stated in the expired Quotation.
 - D. Taxes. Customer is responsible for payment of all applicable taxes. If Customer is a retailer who intends to resell the goods as part of the retailer's regular business activity, Customer must provide to LEC its sales tax account number, valid sales tax exemption resell certificate, or other appropriate documentation; in which case, the LEC Invoice will identify the taxes as a separate item and LEC will not collect sales tax directly from the Customer at time of payment of the LEC Invoice.
 - E. LEC Tools and Designs. All tooling or engineering charges included in an invoice shall not imply ownership of the tools or designs by the Customer. Proprietary materials are covered elsewhere in this agreement.
3. Shipment; Title; Risk of Loss. All shipments by LEC are made F.C.A. LEC Dock, Boulder, Colorado, USA, and accordingly, Customer assumes risk of loss at the LEC Dock. All freight and packing charges are the responsibility of the Customer, including, but not limited to shipping, insurance, customs, duties, taxes, and broker fees. Unless otherwise agreed to in writing by LEC, all products shall be packed for shipment and storage in accordance with standard commercial practices. All packing shall conform to requirements of carrier's tariffs and/or international shipping rules and regulations as they may apply to any international shipment. Title to the products (except software and documentation) shall pass to Customer at the LEC Dock. Title to software products and documentation will remain with LEC or its licensors. Risk of loss shall pass to Customer at the LEC Dock.
4. Delivery Dates; Installment Deliveries.
- A. Delivery Dates. LEC and Customer shall agree, in writing, upon all Delivery Dates. All Delivery Dates are estimated and are dependent in part upon prompt receipt of all necessary information (including but not limited to design information, drawings and drawings approval by Customer) to service an order. LEC shall make a reasonable effort to meet Delivery Dates, but LEC will not be liable for its failure to meet such dates. LEC shall not be liable for any premium transportation or other costs or losses incurred by Customer as a result of LEC's inability to deliver product in accordance with the Delivery Dates. LEC has no obligation to meet a Delivery Date in the event of the Customer's untimely or insufficient payment.
 - B. Installment Deliveries. LEC reserves the right to make deliveries in installments unless specifically agreed to otherwise with client in writing. Partial shipments shall be billed as made, and payments, therefore, are subject to the terms of payment noted above. LEC reserves the right to make shipments in advance of the scheduled delivery date, unless the Customer specifically requests in writing that shipments not be made prior to the scheduled date. LEC reserves the right, in LEC's sole judgment, to allocate inventory and production if such allocation becomes necessary.

5. Payment Terms; Security Interest.

- A. Payment. LEC accepts payment in U.S. Dollars only. Customer shall remit payment so that it is received timely by LEC at LEC's office located at: 6687 Arapahoe Road, Boulder, Colorado 80303-1453.
- B. Terms. Payment in full shall be due (a) before delivery; or (b) if LEC has approved Customer's credit, 30 days from date of Invoice. LEC reserves the right to change the credit terms at any time, when in LEC's sole opinion, Customer's financial condition or previous payment record so warrants. If LEC makes deliveries in installments, partial shipments shall be billed as made and payments are due as stated in this Section.
- C. Untimely or insufficient payment. If full payment is not timely received by LEC, Customer shall be in breach of the Terms and Conditions. Also, LEC reserves the right to charge you a late penalty of 1.5% per month applied against any unpaid balance or the maximum rate permitted by law, whichever is less. Late penalties will be recalculated every 30 days thereafter based on your current outstanding balance. In addition, LEC may suspend or terminate any and all services or performance under any agreement between LEC and Customer, and may refuse additional orders for Products or Services from Customer until LEC's receipt of all overdue amounts. LEC shall have no liability to Customer for any such suspension or termination of services or performance or its refusal of additional orders. LEC may seek collection of all overdue amounts, plus all reasonable legal fees (including reasonable attorney's fees) and costs associated with such collection.
- D. Security Interest. Customer hereby grants, and LEC reserves, a purchase money security interest in each Product purchased hereunder, and in any proceeds thereof, for the amount of its purchase price. Upon request by LEC, Customer shall sign any document reasonably required to perfect such security interest. Payment in full of the purchase price of any product purchased hereunder shall release the security interest on that product.

6. Changes; Cancellations; Specifications.

- A. Changes for Standard Products. If Customer issues a change order less than sixty (60) days prior to scheduled shipment and such change order causes a delivery delay, then Customer may be subject to a fifteen percent (15%) charge based upon the price of the affected product or actual additional charges as may be applicable. In addition, any such change in delivery dates caused by Customer establishing a Delivery Date greater than six (6) months from Customer's original order shall constitute a new order for the affected products. Customer may be required to pay an adjusted unit price based on the quantity of all goods that shall have been delivered under the original order. The then current list price and volume discounts shall apply to the new order.
- B. Cancellations for Standard Products. The Customer may terminate or cancel its order upon at least thirty (30) days advance written notice from the original scheduled shipment date and upon payment of applicable cancellation charges, which shall take into account among other things expenses already incurred and commitments already made by LEC, including but not limited to raw materials, work in process, and finished goods. For the purposes of this section, the date of

termination or cancellation shall be the date on which the written notice of termination or cancellation is received by LEC.

- C. Changes for Customized Products. Customer cannot reschedule deliveries without written approval by LEC, on terms and conditions acceptable to LEC, which may include price adjustments.
- D. Cancellations for Customized Products. If Customer cancels an order for customized products any time after the order is accepted by LEC, Customer may be subject to a charge of up to 100% of the customized products or service value. For customized products or services, Customer cannot cancel or return product without written approval by LEC.
- E. Specifications. For Standard Products, Specifications stated in the LEC Catalog are those that are applied at the time of order. In an effort to constantly improve its products, LEC reserves the right to change specifications at any time without notice and without incurring any obligation to incorporate new features in products previously sold. For Customized Products, the applicable specifications shall be those agreed to in writing by the parties.

7. Limited Warranty.

NOTHING IN THIS SECTION SHALL EXCLUDE OR LIMIT LEC'S WARRANTY OR LIABILITY FOR LOSSES THAT MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT, BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. SOME JURISDICTIONS MAY LIMIT FORUM SELECTION CLAUSES AND STATUTE OF LIMITATIONS PROVISIONS, AS SUCH, ONLY THE LIMITATIONS THAT ARE LAWFULLY APPLIED TO YOU IN YOUR JURISDICTION WILL APPLY TO YOU, AND LEC'S LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

A. Limited Warranty.

- a. Scope of Warranty. LEC warrants that the LEC Services will be provided in a good and workmanlike manner and that the LEC Products (a) materially comply with the specifications expressly stated by LEC or provided by the Customer to LEC; and (b) are free from material defects in materials and workmanship under normal use and service.
- b. Warranty Period. The Warranty period begins on the Date of Inspection and continues for a one-year period.
- c. Warranty Claim: Notice and Opportunity to Inspect. In the event of (a) damage to the LEC Product; (b) a claim that an LEC Product is defective, has malfunctioned, is in need of repair, or is otherwise deficient; or (c) an incident at the Site where the LEC Product is located, specifically including, but not limited to, loss or damage caused by or related to a suspected lightning strike, resulting in loss or damage; the Claimant shall:
 - i. promptly provide Notification to LEC of the damage, claim, or incident. Notification means that the Claimant shall promptly provide to LEC: (a) information relating to the damage, claim, or incident; (b) the bases for

any claim that LEC is responsible in any manner for the damage, claim, or incident; and (c) information regarding the existence of any evidence relevant to the damage, claim, or incident; and

- ii. provide LEC with the Opportunity to Inspect, which means a full and fair opportunity to inspect the LEC Product, the Site, and/ or any relevant evidence before the Claimant takes any remedial action with respect to the damage, claim, or incident.

Failure to provide LEC with Notification and the Opportunity to Inspect shall invalidate any and all applicable warranties.

- d. Remedies in the event of breach of warranty. The following states LEC's sole warranty obligations: The sole remedy of the Customer and of any subsequent purchaser, owner, or operator of the Site, shall be limited to the repair or replacement, in LEC's sole discretion, of any of the LEC Products that do not conform to this warranty during the applicable warranty period. LEC shall have the opportunity, but not the obligation, to modify or augment the existing LEC Product in order to remedy any warranty breach. In no event shall LEC's liability for breach of warranty exceed the Purchase Price, stated herein.
- e. Invalidation of warranty. This warranty shall be invalidated and shall not apply if the products (a) have not been installed, handled, or used in accordance with LEC's guidelines or recommended procedures; (b) have been modified; (c) have been damaged through misuse, negligence, or abuse of the Customer, any subsequent purchasers, or the owner or operator of the Site; (d) are damaged by causes external to the products, including (without limitation) shipping damage, power failure, fire, or accident or catastrophe of any nature; (e) have their warranty seals broken, damaged, or destroyed; or (f) have been subjected to repairs or attempted repairs by any person other than LEC or its authorized representative. These warranties do not apply to products not designed, manufactured, or sold by LEC.
- f. Disclaimer. THE WARRANTY SET FORTH HEREIN IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LEC undertakes no responsibility for the quality of the LEC Products except as otherwise provided herein. LEC assumes no responsibility that the products will be fit for any particular purpose for which Customer may be buying these products beyond the scope of the warranty stated herein. There are no warranties that extend beyond the description herein.
- g. Renewal of Warranty Period. Annual inspections and recertifications of the LEC Products may extend applicable warranties for a period not to exceed one year. Any renewal or extension of any applicable warranty shall be in writing, signed by LEC, and subject to terms and conditions acceptable to LEC.

8. Limitation of Liability.

LEC'S TOTAL LIABILITY IS LIMITED TO THE LESSER OF (A) THE PURCHASE PRICE OF LEC PRODUCTS PER PURCHASE ORDER; OR (B) THE COST OF REPAIR OR REPLACEMENT OF THE DEFECTIVE PRODUCTS.

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER, OR TO ANY PARTY BOUND BY THESE TERMS AND CONDITIONS, FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS; LOSS OF DATA; LOSS OF USE, FINANCING, BUSINESS OR REPUTATION; LOSS OF MANAGEMENT OR EMPLOYEE PRODUCTIVITY OR OF THE SERVICES OF SUCH PERSONS; AND COST OF COVER), OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY LEC PRODUCT OR SERVICE.

THESE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SHALL APPLY TO ALL CLAIMS FOR DAMAGES, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, WARRANTY OR ANY OTHER LEGAL THEORY, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES.

NEITHER LEC NOR THE CUSTOMER WILL BE LIABLE FOR ANY CLAIM BROUGHT MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION FOR SUCH CLAIM FIRST AROSE.

9. Indemnification

- A. Customer's Indemnification of LEC for negligence in connection with LEC Products or Services. The Customer shall be responsible for the use, operation, and service (by itself and by its employees, agents, and any other party for whom Customer is responsible) of: (a) the LEC Products or Services; or (b) any real property ("Site") that incorporates any LEC Product, Services, system, or solution. If a Third Party sustains any damage, loss, or expense; business or economic loss; bodily injury, sickness, disease, or death; or loss, injury, or destruction of tangible property ("Damages") that the Third Party attributes to such LEC Product or LEC Service, then the Customer shall, to the fullest extent allowed by applicable law, indemnify and hold harmless LEC, its officers, directors, shareholders, consultants, agents, and employees from and against any claim by such Third Party for such Damages. Customer's indemnity obligation stated in this paragraph shall not apply if the Damages were caused solely and exclusively by LEC.

- B. Customer's Indemnification of LEC in connection with Resale or Transfer of LEC Products or Services. If the Customer, its employees and agents, or others for whom Customer is responsible (a) resells or distributes any LEC Product; (b) sells, assigns, or leases any real property ("Site") that incorporates any LEC Product, Services, system, or solution; or (c) otherwise transfers LEC Products or Services to a Third Party, and the Third Party sustains any damage, loss, or expense; business or economic loss; bodily injury, sickness, disease, or death; or loss, injury, or destruction of tangible property ("Damages") that the Third Party attributes to such LEC Product or LEC Service, then the Customer shall, to the fullest extent allowed by applicable law, indemnify and hold harmless LEC, its officers, directors, shareholders, consultants, agents, and employees from and against any claims by such Third Party for such Damages to the extent that any such Damages are caused, in whole or in part, by the negligence or other fault of Customer.

- C. Indemnification in connection with Claimed Infringement. This provision states the entire liability of LEC for infringement of intellectual property rights by any LEC products furnished.
- a. LEC's Indemnification of Customer in connection with Claimed Infringement. Unless the products are custom-designed or custom-manufactured by LEC to specifications supplied by the Customer, LEC shall defend any suit or proceeding brought against the Customer that is based on a claim that one or more of the LEC products infringes a valid U.S. patent or copyright, and pay any resulting costs, damages, and attorneys' fees finally awarded against Customer that are attributable to such claim, provided that the Customer (a) notifies LEC promptly in writing of the assertion (whether or not the assertion has been made in by an informal or formal claim, or in a suit or other proceeding) by a third party of a claim of infringement; (b) gives LEC full authority to respond to the assertion (including full authority to defend or compromise any suitor proceeding); and (c) complies fully with all reasonable requests by LEC for information and assistance regarding the asserted infringement. If the Customer complies with these conditions and is enjoined from continued use of the product, then LEC shall, at LEC's option, either (a) acquire the right for the Customer to continue to use the product by payment of a license fee or otherwise; (b) modify the product to eliminate the infringement; (c) replace the product with a non-infringing substitute; or (d) refund the depreciated value of said product upon return of same to LEC.
- b. Circumstances where LEC will not indemnify. LEC shall be relieved of all its obligations to defend the Customer pursuant to this provision and for any liability for infringement if (a) any asserted infringement is based upon the use of any of the products (or any components of any of the products) in a manner for which the product (or the component) was not designed or intended or with products not supplied by LEC; (b) the product has been modified by or on behalf of the Customer by anyone other than LEC or its agent(s); or (c) the Customer does not fulfill its obligations under this provision. LEC shall have no liability for, and the Customer, to the fullest extent permitted by law, agrees to indemnify LEC and to hold LEC harmless from, any loss or expenses (including attorneys' fees) resulting from any intellectual property infringement arising from any of the products that are custom-manufactured by LEC to specifications or technical information supplied by the Customer.

10. Disputes.

- A. Governing Law. This agreement, and any related agreement dealing with LEC's Products or Services, and any claim, dispute, or controversy (whether in contract, tort, or otherwise, including statutory, consumer protection, common law, intentional tort and equitable claims) between Customer and LEC, including their affiliates, contractors, and agents, and each of their respective employees, directors, and officers arising or relating to this agreement, its interpretation or the breach, termination, or validity therefore, the relationships which result from this Agreement (including, to the full extent permitted by applicable law, relationships with third parties who are not signatories to this Agreement), LEC's advertisements (including representations in LEC's published materials or on LEC's website) – all of which shall be referred to herein as a “**Dispute**” – shall be governed by, and construed in accordance with, the laws of the State of

Colorado without giving effect to the conflict of law provision thereof. The parties agree that the UN Convention for the International Sale of Goods will have no force or effect on this Agreement.

- B. Dispute Resolution. Any unresolved disputes between the parties relating to or arising from this Agreement shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA Rules") before a single neutral and competent arbitrator selected in accordance with the AAA Rules. Such arbitration shall be held in Denver, Colorado and conducted in the English language. The cost and expense of arbitration shall be shared equally by the parties to the arbitration, regardless of which party or parties prevail. The decision or award of the arbitrator shall be final and binding upon the parties and shall be enforceable under the Federal Arbitration Act. However, in the event of any breach or threatened breach of confidentiality/license obligations, the non-breaching party will be entitled to seek equitable relief in addition to its other available legal remedies without submitting such matter to arbitration.
- C. Venue. The parties agree that any Dispute that is subject to litigation shall be brought exclusively in the state or federal courts located in Colorado. Any Dispute that may be litigated in state court shall be brought in the state court located in Boulder County, Colorado and any dispute that may be litigated in federal court shall be brought in the United States District Court for the District of Colorado, located in Denver, Colorado. Customer and LEC agree to submit to the personal jurisdiction of such state and federal courts of Colorado and agree to waive any and all objections to the exercise of jurisdiction over the parties by such courts and to venue in such courts.
- D. Attorneys' Fees. Unless expressly agreed to the contrary herein or in writing by the parties, the party that substantially prevails in any litigation, arbitration proceeding, or any other legal proceeding shall be entitled to recover its reasonable attorneys' fees from the other party. Also, LEC shall be entitled to attorney's fees and other costs for any action (including, but not limited to initiating litigation) necessary to collect on: (a) any unpaid balanced owed by the Customer to LEC; or (b) any invoice for products or services ordered by the Customer and changed or cancelled in a manner inconsistent with these *Commercial Terms and Conditions of Sale*.
11. Proprietary Materials. LEC shall retain exclusive ownership in the reports, specifications, designs and any other intellectual property created by LEC in the course of providing products and services, including customized systems and solutions, to Customer. Unless otherwise agreed to in writing by LEC, copyrighted materials (software and printed documentation) and other proprietary materials (including reports, designs and specifications) supplied by LEC may not be copied except for archive purposes or to replace a defective copy. LEC grants Customer a nonexclusive license to use the copyrighted and other proprietary materials only to evaluate the proposed products/solution and to operate the products/solution supplied by LEC. Customer may transfer the copyrighted and other proprietary materials only upon and in conjunction with the transfer of the site where products are installed and will continue to operate and subject to the confidentiality obligations. Customer and any transferee is prohibited from disassembling, decompiling, or reverse engineering the LEC products and software or using the documentation and any other proprietary material for any purpose other than in connection with the use of associated products/solution supplied by LEC. Customer's

license confers no title or ownership and is not a sale of any rights in the copyrighted and other proprietary materials.

12. Confidential Information.

- A. Definition. "Confidential Information" shall include but not be limited to: (1) all ideas, designs, specifications, concepts, and inventions made or developed by LEC in the course of or related to providing the products or services under this agreement; (2) all other trade secrets or confidential or proprietary information of either party marked as or stated to be "Proprietary" or "Confidential"; and (3) information relating to the terms of this agreement, except to the extent that the parties mutually agree to disclose such information to a third party. Unless otherwise provided in this agreement, information shall be identified as Confidential Information orally at the time of disclosure, by using an appropriate proprietary stamp or legend, or by designating the information as confidential in writing within thirty (30) days after such disclosure.
 - B. Maintenance of Confidentiality. Except as expressly allowed in the paragraph immediately below or elsewhere herein, each party agrees to maintain all Confidential Information of the other party in confidence to the same extent that it protects its own similar confidential information (but in no event less than a reasonable degree of care), to take reasonable precautions to prevent unauthorized disclosure or use of such information, and to use such Confidential Information only in connection with performing under this agreement. These restrictions on disclosure and use shall survive the termination of this agreement.
 - C. When Confidentiality is not Maintained. Neither party shall be obligated to maintain the confidentiality of any information only to the extent that it (1) is or becomes generally known to the public without violation of this agreement by the receiving party; (2) was in recipient's lawful possession prior to the disclosure and had not been obtained by the receiving party directly or indirectly from the disclosing party; (3) is lawfully obtained by receiving party from a third party without restriction on disclosure; (4) is independently developed by receiving party without use of Confidential Information; (5) is released from confidential treatment by written consent of the disclosing party; or (6) is required to be disclosed to comply with applicable laws, a court order, or governmental regulations, provided that the party required to make the disclosure provide prior written notice of the disclosure and take reasonable actions to minimize the extent of the disclosure.
 - D. Return of Confidential Information. Upon request of either party, each party must promptly return to the other party all Confidential Information in the possession of the party and/or its agents. An officer of each party must certify the return of all Confidential Information to the other party.
13. Export Controls. Unless otherwise agreed to by LEC, Customers who export from the U.S.A. products purchased hereunder assume all responsibility for obtaining any required export authorization. Customer shall not export, re-export, or transfer technical data or products supplied by LEC, directly or through others, or the direct product of such data, to any country or user to which such export, re-export, or transfer is restricted by United States or local country law or regulation without first obtaining any required government license, authorization, certification, or approval.

14. Force Majeure. All orders accepted by LEC are subject to postponement or cancellation for any cause beyond the reasonable control of LEC, including without limitation: inability to obtain necessary materials and components; strikes, labor disturbances, and other unavailability of workers; fire, flood, and other acts of God; war, domestic or international terrorism, riot, civil insurrection, and other disturbances; production or engineering difficulties; and governmental regulation, orders, directives, and restriction.

15. Important Additional Information

- A. LEC's disclaimer regarding bonding. Customer has been informed that LEC has limited experience, knowledge, and expertise in the requirements for adequately "bonding" the equipment and machinery to which LEC's products, services, systems or solutions will be affixed. Accordingly, Customer agrees that it shall not be entitled to rely on information, guidelines, or other materials relating to bonding which LEC has provided to Customer. Further, Customer agrees that LEC shall not be responsible for, and waives and releases any right it might otherwise have to assert a claim for, any damage, loss or expense resulting, in whole or in part, from any incomplete, or nonexistent, or insufficient bonding on any of Customer's machinery or equipment. LEC strongly advises Customer to consult its own expert regarding bonding.
 - B. Field Supervision and Installation. For purposes of determining hours to be billed, Installation Supervisor time starts when Supervisor departs LEC or home, and stops when Supervisor returns to LEC or home. The Customer shall pay all change fees and additional costs as a result of schedule changes caused by Customer. The Customer shall provide at least ten (10) days advance notice of installation schedule. The Customer shall pay for time when the Installation Supervisor is available but unable to work due to circumstances caused by the Customer or Force Majeure.
 - C. Bankruptcy. Except as may be prohibited by U.S.A. bankruptcy laws, in the event of any insolvency or any inability to pay debts as they become due by a party hereto, or voluntary or involuntary bankruptcy proceeding by or against a party hereto, or appointment of a receiver or assignee for the benefit of creditors, the other party may elect to cancel any unfulfilled obligations hereunder, except for payments due.
 - D. Assignment. Neither party may assign or transfer any of the rights, duties, or obligations herein without the prior written consent of the other, and any purported attempt to do so shall be null and void.
 - E. No Forfeiture through non-exercise of rights. Neither party's failure to exercise any of its rights hereunder shall not constitute or be deemed a waiver or forfeiture of such rights.
 - F. Government Procurement Regulation. No U.S. Government Procurement regulations shall be included hereunder and binding on either party unless specifically agreed to in writing prior to incorporation herein.
16. Notices. Any notice to be given to LEC under this Agreement, and any related agreement dealing with LEC's Products or Services, including any warranty-related notice, must be in writing and sent by postage prepaid first-class mail or receipted courier service to the address below or to such other address (including facsimile or

email) as specified in writing, and will be effective upon receipt: Lightning Eliminators & Consultants, Inc., 6687 Arapahoe Road, Boulder, Colorado 80303-1453.

17. Entire Agreement; Severability. This agreement constitutes the complete agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations or offers, written or oral. This agreement may be amended only in writing, signed by an authorized representative of each party. If any provision of this Agreement should be found to be void or unenforceable, such provision will be stricken or modified, but only to the extent necessary to comply with the law, and the remainder of this Agreement will remain in full force and will not be terminated.
18. Updates. LEC reserves the rights to update this Agreement at any time, effective upon posting an updated version at www.lightningprotection.com; however, your rights and obligations shall be as provided in the version of the Agreement executed by you or available to you at the time of your purchase of the Products or Services, or when applicable, at the time of recertification of an LEC Product.

Lightning Eliminators & Consultants, Inc.
Commercial Terms and Conditions of Sale
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