



## TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale ("Terms and Conditions") govern the purchase of goods ("Goods"), specified on the Lightning eMotors, Inc. Quote and Order, and when signed by Customer (the "Confirmation Order"), from Lightning eMotors, Inc., and any of its subsidiaries or affiliates ("Seller") to Customer. Customer refers to the person or entity buying the Goods pursuant to the Confirmation Order. Seller and Customer are collectively referred to herein as the "Parties" and each a "Party." Seller's acceptance of the Confirmation Order is expressly conditioned upon Customer's agreement to these Terms and Conditions as well as the terms on Seller's Confirmation Order, which exclusively govern and control and are in lieu of, replace and supersede any and all prior or contemporaneous understandings, agreements, negotiations, representations, communications both oral or written, warranties, and terms and conditions set forth in any documents issued or submitted by Customer, including, without limitation, purchase orders and specifications. ANY ADDITIONAL, DIFFERENT, OR CONFLICTING TERMS AND CONDITIONS ISSUED OR SUBMITTED BY CUSTOMER IN ANY MANNER WHATSOEVER AT ANY TIME ARE HEREBY REJECTED BY SELLER AND SHALL BE WHOLLY INAPPLICABLE TO ANY SALE MADE HEREUNDER AND SHALL NOT BE BINDING IN ANY WAY ON SELLER. No waiver or amendment to these Terms and Conditions shall be binding on Seller unless made in writing expressly stating that it is such a waiver or amendment to these terms specifically and signed by Seller.

**1. Prices.** Except as otherwise specified by Seller in writing, all invoices for Goods or services will be at the price stated on the Confirmation Order (the "Price"). Seller shall have the right to increase the price at any time to reflect increases in manufacturing costs or for any additional duty, tariff, tax, or other charge imposed as a result of any action by the U.S. Government, any state or local government, or any agent or agency thereof or to compensate for exchange rate variations.

**2. Deposit.** Customer shall pay a nonrefundable and non-cancellable deposit equal to twenty percent (20%) of the Price, unless otherwise agreed to by both Seller and Customer in the Confirmation Order.

**3. Payment.** Seller shall issue an invoice to Customer upon commissioning of the Goods, including any vehicle which is the subject matter of the Confirmation Order. Customer shall pay all properly invoiced amounts due to Seller. ALL PAYMENTS SHALL BE DUE ON RECEIPT OF INVOICE IN UNITED STATES DOLLARS; provided, however, that if shipments are delayed by Customer without Seller's prior written consent, payments shall become due on the date that Seller is prepared to make shipment. If the Goods specified in the Confirmation Order is a vehicle, Seller reserves the right to delay shipment or withhold the manufacturers statement of origination ("MSO") until payment in full is received by Seller. On any amounts not paid when due, Customer agrees to pay interest at the rate of 1 and 1/2% per month (18% per year) or, if such rate is in excess of the rate allowed by law, then Customer agrees to pay the highest rate allowed by law. In addition, Customer agrees to pay all costs of collection, including costs of litigation and reasonable attorneys' fees. Seller may accept partial payment in an amount less than the full amount of any invoice, but such acceptance shall not constitute a waiver of Seller's right to collect the balance or an accord and satisfaction notwithstanding Seller's endorsement of a check or other instrument. If Customer does not comply with the payment terms, Seller may suspend further shipments, may suspend any warranty, and require new payment terms as a condition of further shipments. In addition, Seller may terminate a Confirmation Order, in whole or in part, with immediate effect upon written notice to Customer, if Customer becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors. Each individual shipment shall be invoiced and paid as a separate and independent transaction. Customer hereby grants, assigns, conveys, mortgages, pledges, hypothecates, and transfers to Seller and Seller reserves a purchase money security interest in the Goods sold to Customer, and in the proceeds thereof, until payment is made in full by Customer. In the event that Customer sells or otherwise disposes of the Goods sold to Customer without the prior written consent of Seller prior to full payment for these Goods being made to Seller, Seller shall be entitled to the entire proceeds of sale, which amount will be held by Customer

in a separate bank account on trust for Seller. Customer agrees to execute financing statements and other instruments at Seller's request and Customer authorizes the filing and recording of such financing statements and other instruments. Alternatively, Seller may file a copy of these Terms and Conditions of Sale.

**4. Credit.** All shipments, deliveries, and performance of work covered by this sale may at all times be subject to credit approval or review by Seller at its sole discretion. Customer shall provide such credit information, references, and assurances as are requested by Seller at any time. Customer authorizes such references to release credit information about Customer's accounts and warrants that all such information and assurances shall be true and correct. Customer agrees to indemnify and hold harmless Seller and their employees and agents from any and all liability, including all costs and reasonable attorneys' fees, resulting from the references and released information and the extension of credit hereunder. Seller, in its sole discretion and judgment, may discontinue credit at any time without notice.

**5. Titles, registration & taxes.** If the Confirmation Order provides for Customer to purchase the Goods, the legal and beneficial title to the Goods shall pass to Customer only upon payment in full to Seller, unless otherwise set forth in the Confirmation Order. Any and all title and registration fees on Goods are the responsibility of Customer, including any vehicle which is the subject matter of the Confirmation Order, shall be the responsibility of Customer. Stated prices do not include any customs duties, sales, use, value added, excise, goods and services, federal, state, local or other similar taxes. All such duties or taxes shall be paid by Customer, or, in lieu thereof, Customer shall provide Seller with an appropriate exemption certificate acceptable to the relevant taxing authority.

**6. Vehicle intake.** If Customer is providing a vehicle chassis for electrification, whether a new vehicle chassis or a used vehicle chassis (in either case a "Chassis") the Chassis that Customer provides must be delivered fully intact, with all standard components, and not be de-contented prior to being delivered to Seller. Customer is responsible for all shipping costs and liabilities when shipping Chassis to Seller and for return shipping of a Disqualified Chassis, as described below, unless otherwise agreed in the Confirmation Order. Upon Seller's receipt of the Chassis, Seller will conduct a Chassis intake inspection ("Intake Inspection"). If the Confirmation Order provides for Seller to electrify a used Chassis ("Repower"), the used Chassis must be in good and safe working and operating condition generally and not have any mechanical defects, and in addition must have tires with at least 1/8" tread depth, an unbroken windshield, and functional brakes, windshield wipers, headlights, taillights, brake lights and turn signals. Seller reserves the right, in its sole discretion, to reject a Chassis ("Disqualified Chassis"). Seller will promptly notify Customer if a Chassis is determined to be a Disqualified Chassis. Seller may elect to provide a repair quote to Customer for services to render the Disqualified Chassis eligible for Repower. If a Chassis is

determined to be a Disqualified Chassis at any time after the Intake Inspection, Seller will notify the Customer of the vehicle issues prior to completing the repower and any commissioning of the Goods. Seller may elect to provide a repair quote to Customer for services to render the Disqualified Chassis suitable to allow Seller to complete the electrification of the Chassis. Customer accepts Seller's standard labor rate at \$250 per hour, plus costs of materials and/or replacement parts with a ten percent (10%) material and/or parts handling markup. All rights, title, and interest in de-contented components from any Chassis which are removed during the electrification process shall become the property of Seller.

**7. Delivery location and packaging.** All Goods shall be delivered to the address specified in this Confirmation Order (the "Delivery Location"). Unless otherwise specified, all Goods shall be packed for shipment according to Customer's reasonable instructions or, if no instructions are provided, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Any and all packaging costs are the responsibility of Customer.

**8. Shipping terms.** Customer shall arrange all shipping services for the Goods and all shipping costs and liabilities are the responsibility of Customer unless otherwise agreed in the Confirmation Order. If Seller arranges shipping for Customer, Seller will invoice the full shipping costs plus a twenty-five percent (25%) adder on such costs as a logistic fee to Customer. Unless different delivery terms are specified in the Confirmation Order, all Goods shall be delivered to Customer EXW Loveland, at Seller's manufacturing site, per Incoterms 2020, regardless of any provisions for payment of freight or insurance or the form of shipping documents. Risk of loss to all Goods under the EXW delivery term passes to Customer when Seller has made the Goods available for delivery to the Customer's designated carrier at Seller's manufacturing site in Loveland, Colorado. If the Confirmation Order provides that Seller will handle delivery of the Goods to Customer, any such deliveries of Goods that are not handled according to EXW shall be shipped to Customer FCA (Seller's location), per Incoterm 2020 rules, unless otherwise specified by the Parties in the Confirmation Order. If for any reason Customer fails to accept delivery of any of the Goods on the date fixed pursuant to Seller's notice that the Goods have been delivered at the delivery point, or if Seller is unable to deliver the Goods at the delivery point on such date because Customer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Goods shall pass to Customer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Customer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage (at prevailing local rates) and insurance). Seller shall provide Customer with all shipping documents, including the commercial invoice, packing list, and any other documents necessary to release the Goods to Customer within five (5) business days if Seller delivers the Goods to the transportation carrier. Unless otherwise specified by Seller in writing, Seller shall ship by the method which it deems most advantageous. Transportation will be collected, or if prepaid, will be subsequently billed to Customer, provided that a twenty-five percent (25%) logistic fee will be added. Claims against Seller for shortages shall be deemed waived if not made within ten (10) days after receipt of the shipment. Seller may modify the specifications of Goods designed by Seller, provided such modifications do not adversely affect the performance of the Goods.

**9. Grants and vouchers.** If the purchase of the Goods is for the purchase of a vehicle(s), and if such purchase is contingent upon HVIP funding in the state of California, Customer agrees: (a) to operate the vehicle(s) within all applicable requirements set forth in the California HVIP program administered by CALSTART; (b) vehicle(s) must have less than 3,500 miles on the odometer at the time of registration; (c) comply with Section 14 herein; (d) failure to comply with (a) and/or (b) and/or (c) may result in voiding the

CALSTART voucher. If all or part of the Price and payment to Seller is contingent or allocated against any third-party grants or voucher programs that are dependent on Customer action including, but not limited to, DMV registration of the vehicle, scrappage of currently owned vehicles, signed lease agreement, signed voucher redemption form, etc., Customer must comply with all requirements within fourteen (14) calendar days of delivery; failure to comply shall result in a penalty payment to Seller of five-hundred dollars (\$500.00) per day per vehicle. Further, if voucher or grant funding payment is denied or delayed beyond 120 days after Customer has taken delivery of the vehicle due to Customer's inaction, Seller reserves the right and Customer agrees to be invoiced for the full Price of the Goods absent the voucher or grant funding amount; any applicable voucher payment or grant funding received by Seller after payment by Customer of the full Price as stated in such invoice, will be credited or paid to Customer.

**10. Order cancellation; returns and adjustments.** Upon issuance of the Confirmation Order, Customer may not cancel this Agreement, or otherwise be released from the obligations herein, absent the express written approval of Seller. Seller may issue such express written approval of cancellation only upon payment to Seller of cancellation and restocking charges, including reimbursement for direct costs, or forfeiture of any Customer deposit. Customer hereby acknowledges that Seller does not generally inventory the products necessary to create the Goods, that Seller assembles the Goods on a work made for hire basis for Customer, and that in reliance upon Customer's order, Seller will incur costs to obtain the goods necessary to assemble the Goods. Seller has an absolute right to cancel any Confirmation Order for any or all Goods subject to a Confirmation Order by submitting written notice of cancellation to Customer. No delivered Goods may be returned by Customer for any reason without the prior written authorization of Seller. All returns shall be in the original packaging or equivalent. Any Goods returned to Seller without prior authorization for its return or proper packaging may be refused.

**11. Remedies.** If Customer fails to pay any sum when due, fails to accept any delivery of conforming goods, returns product without advance written authorization of Seller, or otherwise fails to abide by these Terms and Conditions, in addition to any other remedies allowed by law and under these terms, Seller may suspend deliveries while Customer is in breach, or cancel all further deliveries, and Customer shall remain liable for, as damages, the difference between the stated price of this sale and the average selling price obtained by Seller for Goods of like kind and quality for sales at or about the time of scheduled delivery.

**12. Force majeure.** Seller shall not be liable for any delay in performance directly or indirectly caused by or resulting from acts of God, fire, flood, accident, riot, war, terrorism, epidemic, pandemic, government intervention, embargoes, strikes, labor difficulties, equipment failure, alien invasion, late delivery by suppliers or other difficulties which are beyond the reasonable control of Seller.

**13. Quantities are subject to availability.** In the event of production difficulties or product shortages, Seller may allocate sales and deliveries at its sole discretion.

**14. Change restrictions.** Customer shall not make any changes to the Goods, including, but not limited to, remove/alter labels, rebrand, add external badges, resell components and/or remove components from the Goods whether or not for resale or otherwise, except upon express Seller's prior written authorization.

**15. Warranty.** The warranty applicable to this Confirmation Order is the standard limited warranty offered by Seller, and Seller agrees to be bound by that warranty in its form as of the effective date of this Confirmation Order, found at: [www.lightningemotors.com/warranty](http://www.lightningemotors.com/warranty). EXCEPT AS SET FORTH EXPRESSLY IN THIS SECTION, SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OTHER WARRANTIES THAT MIGHT ARISE FROM COURSE OF DEALING OR CUSTOM OF TRADE. SELLER WARRANTS ONLY THAT THE GOODS COMPLIES WITH SELLER'S SPECIFICATION SHEET FOR THE PRODUCT AT THE TIME OF DELIVERY, PROVIDED THAT DEVIATIONS FROM SPECIFICATIONS WHICH DO NOT MATERIALLY AFFECT PERFORMANCE OF SUCH GOODS IN THE SYSTEM AND CONFIGURATION IN OR FOR WHICH IT IS INITIALLY INSTALLED OR QUALIFIED BY CUSTOMER SHALL NOT BE DEEMED TO CONSTITUTE FAILURE TO COMPLY WITH SUCH SPECIFICATIONS. No agent, employee or representative of Seller has any authority to bind Seller to any affirmation, representation or warranty relating to the Goods other than as specifically provided herein.

**16. Limitation of liability.** EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING FROM THESE TERMS, SELLER'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS SALE, OR THE FURNISHING, PERFORMANCE OR USE OF ANY GOODS OR SERVICES SOLD PURSUANT HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, THE NEGLIGENCE OF SELLER, OR OTHERWISE. EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, COST OF REMOVAL, RECALL, REWORK, REINSTALLATION, ANCILLARY COSTS TO THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, RETESTING, OUTSIDE COMPUTER TIME, LABOR COSTS, LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF USE, LOSS OF DATA, OR BUSINESS INTERRUPTION, INCLUDING LINES DOWN. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT, NO CLAIM, SUIT OR ACTION WILL BE BROUGHT AGAINST SELLER MORE THAN TWELVE (12) MONTHS AFTER THE EVENT THAT FIRST GAVE RISE TO THE CAUSE OF ACTION OCCURRED. EXCEPT FOR THESE INDEMNIFICATION OBLIGATIONS, IN NO EVENT WILL SELLER'S AGGREGATE LIABILITY HEREUNDER, INCLUDING, WITHOUT LIMITATION, FROM ANY WARRANTY, OR OTHER OBLIGATION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID TO SELLER FOR THE PARTICULAR CONFIRMATION ORDER AT ISSUE DURING THE PRIOR SIX (6) MONTHS WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE OR EXTEND THIS LIMIT. THE FOREGOING LIABILITY LIMITATIONS ARE ESSENTIAL ELEMENTS OF THIS AGREEMENT AND THAT IN THE ABSENCE OF SUCH LIMITATIONS THE MATERIAL AND ECONOMIC TERMS OF THIS AGREEMENT WOULD BE SUBSTANTIALLY DIFFERENT.

**17. No warranty against patent infringement.** CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT SELLER DOES NOT WARRANT THAT THE GOODS ARE FREE OF CLAIMS OF PATENT INFRINGEMENT OR OTHER INFRINGEMENT BY ANY THIRD PARTY. SELLER HEREBY DISCLAIMS ANY SUCH WARRANTY OR INDEMNIFICATION AGAINST ANY INFRINGEMENT.

**18. Software or firmware.** Any software or firmware included with Goods licensed by Seller is protected by copyright law and international treaty provisions. Unless otherwise provided for in applicable software terms, by purchasing a hardware product that includes pre-loaded software or firmware, Customer is hereby granted a limited copyright license to use the software or firmware solely in conjunction with the Goods. No other rights or licenses to the software or firmware are granted under these terms. Customer may not sublicense, assign, rent, lease, or otherwise transfer or market any software or firmware included with the Goods and licenses herein. Customer agrees to comply with the license hereunder, all copyright laws and other applicable laws in connection with the software or firmware. Software or firmware which may be provided with the

product are provided on an AS IS basis, with no representations or warranties of any kind. In the event that Customer refuses or fails to install a software or firmware update, any warranties set forth in these Terms and Conditions for any Goods shall be void and no longer applicable.

**19. Privacy policy and data.** Subject to the limited license granted in Section 18, to the fullest extent permitted by law, Seller shall own or be fully licensed for all data collected from Seller's analytics and telematics hardware and software installed on the Goods. Seller's use of Customer information and data generated collected from the Goods is subject to the Lightning eMotors, Inc. Privacy Policy, which may be found at [www.lightningemotors.com](http://www.lightningemotors.com), and is incorporated into this Agreement.

**20. Product discontinuance.** Seller reserves the right to discontinue production of any Goods at any time without notice except for that quantity of Goods for which Seller has received, acknowledged, and accepted a Confirmation Order from Customer and has scheduled such Goods for shipment within six (6) months of the date of such acceptance.

**21. Property rights.** The design, development or manufacture by Seller of Goods for Customer shall not be deemed to produce a work made for hire and shall not give to Customer any copyright interest in the Goods or any interest in all or any portion of the mask works or other intellectual property rights relating to such Goods. All such rights shall remain the property of Seller. No license, express or implied, with regard to any trademark of Seller or its affiliated companies is granted to Customer under this agreement. Sale of Goods or any part thereof does not convey to Customer any license, express or by implication, estoppel or otherwise, under any patent or patent claim with respect to which Seller can grant licenses covering completed equipment, or any assembly, circuit, combination, method or process in which any such Goods are used as components (notwithstanding the fact that such products may have been designed for use in or may only be useful in such patented equipment, assembly, circuit, combination, method or process, and that such products may have been purchased and sold for such use). Seller expressly reserves all rights under such patent or patent claim.

**22. Confidential information.** Seller shall have no obligation to hold any information received from Customer hereunder in confidence unless such information is covered by a separately negotiated non-disclosure agreement which is reduced to writing and signed by both parties. Unless covered by a separate non-disclosure agreement executed by the parties, Customer acknowledges that all information and materials that come into Customer's possession or knowledge in connection with past and future purchases of Goods from Seller and which is marked, identified, accepted as confidential or proprietary information or may be deemed confidential or proprietary by its nature or by the circumstances of its disclosure ("Confidential Information"), consists of confidential or proprietary information the improper disclosure or use of which will be damaging to Seller. Therefore, Customer agrees to hold all Confidential Information in confidence to disclose Confidential Information only to those of its employees having a need to know, and not to disclose Confidential Information to any other party. Customer agrees that it will not use of any Seller's Confidential Information, and to the fullest extent permissible under applicable law, will not modify, reverse engineer, reverse compile, reverse assemble or synthesize in any way Seller's products or Seller's Confidential Information to facilitate or aid in the design, manufacturing, research, or development of electric vehicles and electric vehicle powertrains whether for internal consumption, open market sale or for any other purpose inconsistent with these Terms and Conditions. Customer agrees that all pricing terms and conditions are considered Confidential Information between Customer and Seller.

**23. Export compliance and economic sanctions.** Customer is responsible for complying with all applicable export control laws and

regulations with respect to the reexport, shipment, transfer, or use of the Goods. Customer will not provide Goods to entities or individuals that are prohibited from receiving such Goods under applicable laws, including the laws of the United States. Customer shall conduct sufficient screening and due diligence to ensure the transaction does not involve any person or entity identified as a restricted or denied party pursuant to any embargo, sanction, debarment or denied party designation maintained by any country or government whose laws are applicable to this transaction, to the extent that designation prohibits the transaction. A current list of such prohibited entities under U.S. law is available at the following link: [http://2016.export.gov/ecr/eg\\_main\\_023148.asp](http://2016.export.gov/ecr/eg_main_023148.asp). Customer will not export, reexport, or transfer Goods as follows, unless it has authorization to do so under any applicable export control and sanctions laws of the United States: (a) to the Crimea Region, Cuba, Iran, North Korea, Sudan, Syria, or any other country sanctioned or embargoed under U.S. law, or any nationals of such countries; (b) for military end-uses or military end-users restricted under United States laws; and (c) for any end use involving the development, production or uses in connection with chemical, biological, or nuclear weapons, rocket systems or unmanned air vehicle applications, or missiles capable of delivering such weapons. Customer agrees to obtain an export license, if applicable, for sales, exports, reexports and/or transfers of Seller's Goods and/or sale of platforms containing Seller's products as applicable. Customer agrees that they will not transfer any export-controlled item to include transfer to foreign persons, including any lower tier customers, without the necessary export license, or applicable exemption or exception.

**24. Governing law.** This Confirmation Order and all matters arising out of or relating to this Confirmation Order shall be governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule (whether State of Colorado or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Colorado. The parties hereto acknowledge and agree that any legal suit, action or proceeding arising out of or relating to this Confirmation Order shall be instituted in the court within the County of Larimer, in the State of Colorado, which shall be the appropriate venue of any and all litigation, and the parties hereto irrevocably submit to the exclusive jurisdiction of such court. The parties hereby acknowledge and agree that the provisions of the Sale of Goods (United Nations Conventions) Act, Chapter 283A, as amended or replaced, are expressly excluded and shall not apply to these Terms and Conditions of this Confirmation Order.

**25. Assignment.** Customer may not assign its rights or obligations hereunder without the express prior written consent of Seller, and any assignment without such consent shall be a breach hereof by Customer. Seller shall be entitled at any time to assign its rights or obligations hereunder to any third party without Customer's prior written consent.

**26. Term; termination.** Termination or cancellation of this Confirmation Order is not allowed. These Terms and Conditions will remain in effect for the longer of (a) fulfillment of the Confirmation Order or (b) if Seller agrees to terminate the agreement in a written termination agreement. If Customer materially breaches these Terms and Conditions and fails to cure such breach within thirty (30) days after receiving such notice of the breach from Seller, Seller may terminate these Terms and Conditions. Seller may terminate these Terms and Conditions and uncompleted portions of any and all pending Confirmation Orders if Customer files for protection under bankruptcy laws, makes an assignment for the benefit of creditors, or a trustee or a similar officer is appointed for the other party or its assets. On termination or expiration of these Terms and Conditions Sections 2-3, 5-12, and 14-34 shall survive. Termination will not prejudice either party to require performance of any obligation due at the time of termination.

**27. Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of this Confirmation Order or to such other addresses that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), certified or registered mail (in each case, return receipt requested, postage prepaid) or email with return receipt. Except as otherwise provided in this Confirmation Order, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

**28. Entire agreement.** These Terms and Conditions and any applicable nondisclosure agreement (but expressly not including any terms and conditions of Customer's documents, including any Confirmation Order) constitute the entire agreement with regard to this sale and expressly supersede and replace any prior or contemporaneous agreements, written or oral, relating to said sale.

**29. Relationship of the parties.** Seller and Customer are independent contractors of one another. Nothing contained in the Confirmation Order, or these Terms and Conditions, should be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Confirmation Order.

**30. Severability.** If any term or provision of this Agreement is adjudged to be unenforceable, illegal, or invalid, in whole or in part, such adjudication shall not affect the validity of the remainder of the provision or this Agreement. Each provision of this Agreement is severable from every other provision and constitutes a separate, distinct, and binding covenant.

**31. No third-party beneficiaries.** This Confirmation Order is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express, or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms and Conditions.

**32. Waiver.** A waiver of a breach of any term will not be construed as a waiver of any succeeding breach of that term or as a waiver of the term itself. A party's performance after that other's breach will not be construed as a waiver of that breach.

**33. Compliance with law.** Each party will, at its own expense, comply with all applicable governmental laws, statutes, ordinances, administrative orders, rules, or regulations relating to its obligations and performance under this agreement.

**34. Headings.** Headings are inserted solely for convenience of reference, shall not constitute a part of this agreement, and shall not otherwise affect the interpretation hereof.

**35. Brand usage.** Customer agrees to allow Seller to use Customer's name, vehicle images, and logo in news releases and future marketing materials, unless expressly forbidden in writing by Customer.

**36. Electronic certificate of conformity.** In an effort to improve record retention and tracking for incoming goods, services and raw materials, Seller requires all Certificates of Conformance 'paperwork' to be delivered in the form of an electronic document to [orders@lightningemotors.com](mailto:orders@lightningemotors.com).

Lightning eMotors, Inc.