



**HERAEUS ELECTRO-NITE CO., LLC
STANDARD TERMS OF SALE**

The sales agreement consists of, in order of precedence and as applicable: quotation, statement of work or offer, or order acknowledgement (typed portions control over pre-printed portions) (each, an "Offer") of Heraeus Electro-Nite Co., LLC ("Heraeus"); Product, Equipment, or Service specifications; and these standard terms of sale, also known as "Terms of Sale" (collectively, the "Sales Agreement"). Any conflicting or additional terms contained in Purchaser's purchase order, or other method of acceptance or order, constitutes a proposal to amend the Sales Agreement. The proposal will not govern unless expressly accepted in a signed writing by Heraeus. If the Sales Agreement is deemed an acceptance to Purchaser's offer, it is conditioned on Purchaser's assent to the Sales Agreement. Heraeus reserves the right to correct all typographical or clerical errors that may be present in the Sales Agreement

1. **Sale of Goods:** Purchaser agrees to purchase from Heraeus the items or services specified in the applicable Offer, which are either (i) Heraeus consumable or hardware products solely manufactured by, or on behalf of, Heraeus (collectively, "Products"); (ii) equipment or instrumentation solely manufactured by, or on behalf of, Heraeus or its affiliates (collectively, "Equipment") or (iii) services and other related deliverables (collectively, "Services"). Products, Equipment, and Services are, collectively, "Goods."
2. **Prices:** All prices are in U.S. dollars and EXW (Heraeus designated shipping point) (INCOTERMS 2020), unless otherwise stated in the Offer. Prices for the Goods are as described in the Offer.
3. **Taxes:** All prices do not include applicable Federal, State, or Municipal or other governmental taxes, levies, tariffs, duties, or tolls of any kind upon Goods, or the production, sale, distribution, and delivery, or upon any feature of this transaction, now existing or hereafter imposed. Purchaser is responsible for and must pay any such taxes, levies, tariffs, duties, and tolls. Heraeus reserves the right to adjust prices or assess surcharges on Purchaser's purchase orders at any time upon at least thirty (30) days' notice to Purchaser due to any event, nature, or other occurrence beyond Heraeus's reasonable control, including but not limited to: if Heraeus, its affiliates, contractors, or suppliers incurs new, additional, or amended taxes, levies, tariffs, duties, or other governmental charges after the date of the Offer in connection with (i) its performance, or (ii) the import or export of Goods or any components or inputs thereof, including, but not limited to, sourcing of Goods. If Purchaser does not provide written evidence of acceptance of such price adjustments or surcharges within fourteen (14) days after the date of the notice of price adjustment or surcharge, Heraeus may reject or otherwise terminate Purchaser's purchase order without further obligation or liability.
4. **Tooling:** Any special tooling or test equipment required for the production and shipment of any Goods will remain the exclusive property of Heraeus.
5. **Payment Terms:** Unless otherwise stated in the Offer, payment terms will be made on the basis of net thirty (30) calendar days from the date of invoice.
6. **Shipments and Delivery; Title:** All are shipped EXW (Heraeus designated shipping point) (INCOTERMS 2020), unless otherwise stated in the Offer. Title and risk of loss or damage to Products or Equipment shipped shall pass from Heraeus to the Purchaser when the Products or Equipment are made available by Heraeus for collection by the carrier at Heraeus's designated shipping point. Purchaser, however, grants to Heraeus a security interest in the Products or Equipment until payment in full and performance by Purchaser under the Sales Agreement. Heraeus may document this security interest in a security agreement and a UCC financing statement. Any claims for loss or damage after risk has been passed shall be filed with the carrier. Shipping and delivery dates are estimates and based upon prompt receipt by Heraeus of all necessary information, including final agreement on detailed specifications and approved submittal drawings, at its offices, on such dates or with such lead times as specified. Goods will be deemed delivered when they are turned over to the carrier for shipment. Unless stated elsewhere in the Sales Agreement, Products and Equipment will be deemed accepted upon deemed delivery and Services will be deemed delivered upon performance, unless Purchaser rejects the Products or Equipment, or Services, within two (2) business days of either arrival at Purchaser's designated destination or performance, as the case may be. Claims for shortages, damage, or visible defects in Products or Equipment, or non-conforming Service, must be made in writing within that time period.
7. **Instructions:** One copy of instructions for use covering the Goods shall be made available upon request by Purchaser.
8. **Installation; Service Calls:** Unless otherwise stated in the Offer; (i) all Equipment shall be installed by and at the expense of the Purchaser in accordance with the written

installation instructions supplied by Heraeus for such Equipment; and (ii) all Service calls shall be made at the expense of Purchaser at then-current Heraeus rates.

9. Warranties; Indemnification:

- a. **Products.** Subject to the terms of the Sales Agreement, Heraeus warrants to Purchaser that, for a period of ninety (90) days after shipment from Heraeus, all Products shall be: (i) within limits of calibration, if any, specified in their written specifications, in all material respects; and (ii) free from defects in material and workmanship, normal wear and tear excepted.
- b. **Service.** Subject to the terms of the Sales Agreement, Heraeus warrants to Purchaser that, for a period of thirty (30) days from the date of substantial completion of the Services: (i) the Services will be performed by individuals who are experienced and skilled in their profession in accordance with industry standard; and (ii) the Services, when delivered, will (a) conform to their written specifications in all material respects; and (b) be free from defects in workmanship.
- c. **Equipment.** Subject to the terms of the Sales Agreement, Heraeus warrants to Purchaser that, for a period of one (1) year after shipment from Heraeus, all Equipment shall be: (i) within limits of calibration, if any, specified in their written specifications, in all material respects; and (ii) free from defects in material and workmanship, normal wear and tear excepted.
- d. **Equipment Repairs.** Subject to the terms of the Sales Agreement, in the event of repairs to Equipment performed by Heraeus, the repaired component of such Equipment only shall be within limits of calibration, if any, for such period of time, as specified in its written calibration certificate. Heraeus further warrants to Purchaser that the repaired component of Equipment only shall be free from defects in material and workmanship, normal wear and tear excepted, for a period of ninety (90) days from the date of substantial completion of Equipment repair.
- e. **Warranty Claims.** The warranties in Sections 9.a, 9.b, 9.c, and 9.d are only for the direct benefit of Purchaser and may not be transferred to any other person. Purchaser must notify Heraeus in writing of any defects within ten (10) calendar days of the end of the applicable warranty period. As Purchaser's sole remedy, Heraeus will, at its option, replace, repair free of charge, or credit the price paid for any Goods that do not conform to the applicable warranty under Section 9.a, 9.b, 9.c, or 9.d. Purchaser may not return any Goods to Heraeus unless such return is first authorized in writing, and issued a return merchandise authorization (RMA), by Heraeus. Heraeus may require inspection of the purportedly defective or non-conforming Goods. Heraeus may require Purchaser to reimburse Heraeus for all reasonable Heraeus costs and charges if Heraeus is required to examine or rework returned Goods that Heraeus determines to comply with the applicable warranty under Section 9.a, 9.b, 9.c, or 9.d. Purchaser may not make a claim against Heraeus or its suppliers based on any reasonable variations from the specifications of the Products, Services, or Equipment that do not adversely affect their respective general performance. Heraeus is not responsible for performance figures given in any source other than the Heraeus specifications and the applicable material safety data sheet for the applicable Products, Services, or Equipment.
- e. **Misuse of Goods.** Heraeus disclaims liability that may arise: if the Purchaser or any third party modifies, misuses, improperly installs, or repairs the Goods; if the Goods suffer an accident, neglect, or adverse conditions; if the Goods are used contrary to specifications or instructions for use; or from normal wear and tear. The applicable warranty under Section 9.a, 9.b, 9.c, and 9.d will terminate when Purchaser or a third party incorporates such Goods into Purchaser's or a third party's products, facilities, fixtures, materials, goods, or equipment, even if the warranty has not expired, unless the Goods were verified to comply with their respective specifications using tests or methods acceptable to Heraeus.
- f. **Service Conditions.** Heraeus will perform Services with due and reasonable diligence, following the processes and procedures customarily applied by Heraeus to the applicable Services. Heraeus does not guarantee any specific outcome and Heraeus assumes no responsibility beyond performing its Services to this standard.
- g. **Warranty Limitations.** **THE FOREGOING SHALL CONSTITUTE THE EXCLUSIVE REMEDIES OF PURCHASER FOR ANY BREACH BY HERAEUS OF ITS WARRANTIES HEREIN. THE WARRANTIES IN SECTION 9 ARE EXCLUSIVE AND THERE ARE NO WARRANTIES OTHER THAN AS EXPRESSLY PROVIDED HEREIN. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT**

LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND FITNESS FOR USE ARE EXCLUDED. NO MODIFICATION OR ALTERATION OF THE FOREGOING WARRANTIES SHALL BE VALID OR ENFORCEABLE UNLESS SET FORTH IN A WRITTEN AGREEMENT SIGNED BY HERAEUS AND PURCHASER. Products manufactured by a third party ("Third-Party Product") may constitute, contain, be contained in, incorporated into, attached to, or packaged together with, the Goods. Third-Party Products are not covered by the warranty in Section 9. For the avoidance of doubt, HERAEUS MAKES NO REPRESENTATIONS, CONDITIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ANY (i) CONDITION OR WARRANTY OF MERCHANTABILITY; (ii) CONDITION OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (iii) CONDITION OR WARRANTY OF TITLE; OR (iv) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

- h. **Indemnification.** Purchaser will indemnify and hold harmless Heraeus, its affiliates and its and their respective officers, directors, employees and agents from and against any claims, losses, damages, liability and costs arising out of any claim, suit or action alleging: (a) a breach by Purchaser of the Sales Agreement, including, but not limited to, Purchaser's compliance obligations described in Section 14 of these Terms of Sale, or (b) personal injury or property damage arising from the use, operation, or failure to operate the Goods, except to the extent caused by the gross negligence or willful misconduct of Heraeus or the breach of warranty under Section 9.

10. Liability Limitations: IN NO EVENT WILL HERAEUS BE LIABLE FOR CONSEQUENTIAL, PUNITIVE, INDIRECT, EXTRAORDINARY, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, OR USE, INCURRED BY PURCHASER OR ANY THIRD PARTY, WHETHER SUCH DAMAGES ARE CLAIMED IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE EVEN IF HERAEUS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL HERAEUS BE LIABLE FOR DAMAGES GREATER THAN THE AMOUNT OF THE PURCHASE PRICE FOR THE DEFECTIVE PRODUCTS, SERVICES, OR EQUIPMENT, AS APPLICABLE.

11. Intellectual Property. Heraeus provides a license to Purchaser to use and sell the Products or Equipment, but does not transfer any of its rights, title, and interest in any intellectual property related to the Products or Equipment to Purchaser. In the course of manufacturing Goods, Heraeus may invent, develop or discover methods, techniques, processes, technology, know-how, formulas, or software that have application in Heraeus's business generally and are not specific to the Goods ("Heraeus Developments"). Heraeus Developments are and will be the sole and exclusive property of Heraeus. In consideration of receipt of Goods, Purchaser covenants not to reverse engineer any Goods and not to assist or permit any other party, including any affiliate of Purchaser, to reverse engineer any Goods.

12. Force Majeure: If Heraeus', or any of its sub-contractors' or supplier's, ability to perform its obligations under the Sales Agreement is limited, delayed, or prevented in whole or in part by any reason whatsoever not reasonably within the control of Heraeus, its sub-contractors, or its suppliers, as applicable, including, but not limited to, act of God, epidemic, disease, or outbreak, war, invasion, act of foreign enemy, hostilities, civil war, rebellion, civil strife, strikes or industrial dispute, Heraeus' production plants or facilities that are essential for providing the Goods are not in operation (e.g. unscheduled physical inventory or plant maintenance, production changeover, legal holidays, governmental inspection), insolvency or bankruptcy of a supplier, or by any law, rule, regulation, order or other action by any public authority, supply chain or transportation delays, or the refusal of any necessary license, then Heraeus will be excused, discharged, and released from performance. Heraeus shall not be required to allocate production and deliveries among customers should such delay in delivery or failure to manufacture occur.

13. Governing Law; Arbitration: The validity, construction and interpretation of the Sales Agreement shall be governed by the substantive laws of the State of Delaware, without regard to its conflict of laws rules and without giving effect, and expressly excluding, the United Nations Convention on Contracts for the International Sale of Goods (CISG; the Vienna Convention). Heraeus and Purchaser will first endeavor to resolve through good faith negotiations any dispute arising under or relating to the Sales Agreement. If a dispute cannot be resolved through good faith negotiations within a reasonable time, such dispute will be resolved by binding arbitration in New

Castle County, Delaware, and administered by the American Arbitration Association ("AAA"). Any such arbitration must be conducted by a single arbitrator in accordance with the Commercial Arbitration Rules of the AAA, including the Optional Rules for Emergency Measures of Protection, in effect at the time the arbitration is commenced (except as modified in the Sales Agreement). Any arbitration award must be issued within one (1) year from the date claimant files its notice of intention to arbitrate (i.e. the demand), and the arbitrator must agree to comply with this schedule before accepting appointment. Any evidentiary hearing must be held on consecutive hearing days. Any monetary award in the arbitration must include pre-award interest at the rate of 1.5% per month from the time of the acts giving rise to the award. Judgment on the award rendered by the arbitrator may be entered in any court having appropriate jurisdiction.

14. Miscellaneous. No waiver, alteration, or modification of any of the provisions hereof shall be binding on Heraeus unless in writing and signed by Purchaser and an authorized representative of Heraeus. No failure by Heraeus or Purchaser to enforce or take advantage of any provision under this Sales Agreement will constitute a waiver of the right subsequently to enforce or take advantage of such provision. If any provision of the Sales Agreement is prohibited by law, or held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect. The headings contained in the Sales Agreement are for reference only and are not to be construed to affect construction or interpretation of the Sales Agreement. The Sales Agreement, and the documents referenced in the Sales Agreement, including any specifications, constitute the entire understanding and agreement between Heraeus and Purchaser, and supersede all prior oral or written negotiations and agreements with respect to the subject matter of the Sales Agreement. Conflicts in terms will be resolved in the following order of precedence: (a) customized terms of the Offer; (b) the Sales Agreement; and (c) any written agreement signed by authorized representatives of Heraeus and Purchaser expressly amending the Sales Agreement. Nothing in this Sales Agreement may be construed to create a partnership, joint venture, or agency relationship between Heraeus and Purchaser. The Sales Agreement is entered into solely for the benefit of Heraeus and Purchaser, and no other person will acquire the right to enforce any provision of the Sales Agreement against either party. Neither Heraeus nor Purchaser may assign the Sales Agreement to a third party without the prior written consent of the other party except, with prior notice: (a) to an affiliate; or (b) to a third party who will acquire, by sale of assets, merger or otherwise, all or substantially all of the assets of such party. The assigning party will remain obligated to perform under the Sales Agreement notwithstanding such assignment. With respect to all activities under the Sales Agreement, each of Heraeus and Purchaser shall comply with all applicable federal, state and local laws, government regulations and orders, including without limitation concerning: (a) delivery, use, or sale of the Goods; (b) occupational safety and health; (c) protection of persons and property from death, injury or damage; (d) labor and employment, including equal employment opportunity; (e) tax; (f) export control; (g) the environment and the use, handling, storage, labeling, and disposal of toxic or hazardous materials; and (h) money laundering, bribery, anti-terrorism, human rights, trade embargos, and economic sanctions. Unless otherwise noted, all notices or correspondence pursuant to the Sales Agreement must be sent (or faxed with a follow up copy sent) to the address or number and to the contact on the Offer or to such other address as may be designated by Heraeus. All provisions that are continuing in nature, including but not limited to those involving indemnity, will survive termination of the Sales Agreement. Heraeus' rights and remedies are cumulative and in addition to any other rights and remedies provided by law or equity (or provided under the Uniform Commercial Code except to the extent modified herein).