



## Terms and Conditions

This Order is effective as of the date the user ("Customer") orders products from Oso Electric Equipment, LLC ("Oso"). Customer acknowledges and agrees that this Order is subject to Oso Terms ("Terms") attached hereto. Capitalized terms used but not defined in this Order have the meanings set forth in the Terms.

Please note that our Terms were updated on October 1, 2022, and that the updated Terms will apply to: (1) all Orders made after this date; (2) all Orders effective prior to this date, except that these Terms will not apply until the start of the next renewal period; and (3) any use of the Equipment not subject to an Order. These Terms will supersede and replace other terms and conditions in such Orders to which these Terms will apply.

These Terms attached to an Order or otherwise available at [www.osoelectric.com](http://www.osoelectric.com) ("**Terms**"), together with any applicable Order and Supplemental Terms (collectively, the "**Agreement**"), constitute a binding Agreement between you (the "**Licensee**" or "**you**") and Oso Electric Equipment, LLC ("**Oso**" or "**we**" or "**us**"). If you are entering into the Agreement on behalf of a corporate or other entity, the entity will be the Licensee and you will be an End User. These Terms supersede any prior agreement or terms related to the Equipment.

By using or ordering any Equipment or Service, (a) you accept and agree to be bound by these Terms, (b) you represent that you have full power and authority to enter into the Agreement (including, if you are entering into the Agreement on behalf of another person, to bind that person to this Agreement) and perform all applicable obligations under it, and (c) you represent that your execution and performance of the Agreement will not conflict with or otherwise violate any Applicable Laws or other agreement to which you may be bound.

### 1. Definitions

- 1.1. *Defined Terms.* Some terms used throughout the Agreement have special meanings. These are defined terms. Defined terms are capitalized each time they are used and appear with bolded text the first time they are used. Certain defined terms are below:
- 1.2. "**Add-on Order**" means any Order made after the Initial Order.
  - 1.2.1. "**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with a party or any successor to it or its business and assets, where "control" means the direct or indirect ownership of more than 50% of an entity's voting securities.
  - 1.2.2. "**Applicable Laws**" means all applicable United States state and federal laws, regulations, rules, orders, and judgments of U.S. governmental bodies.
  - 1.2.3. "**Documentation**" means technical, educational, security, or other documentation, resource, or material that describes the Equipment or their functionality or use, including user guides and videos and other materials at [www.osoelectric.com](http://www.osoelectric.com).
  - 1.2.4. "**End User**" means an individual person who uses the Equipment or Service.
  - 1.2.5. "**Equipment**" means, collectively, the electric lawnmower, battery, charging equipment, or any other equipment leased by Oso to Licensee.
  - 1.2.6. "**Initial Order**" means the first Order made by Licensee.



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- 1.2.7. **"Order"** means any agreement between Oso and Licensee for the use of one or more Equipment or Service selected by Licensee, whether made online or by a signed order form, addendum, statement of work, sales agreement, or similar agreement.
  - 1.2.8. **"Service"** means, collectively, any repair, maintenance, or other services performed by Oso on the Equipment, including, without limitation, the Software Services.
  - 1.2.9. **"Software Services"** means all of Oso's and its licensors' proprietary technology that Oso makes available to Licensee and its End Users as part of or in connection with the Service (including, without limitation, any and all software, hardware, products, processes, APIs, algorithms, user interfaces, trade secrets, know-how, techniques, designs and other tangible or intangible technical material or information) and the back-end and infrastructure systems and technology that operate or permit access to the Equipment or Service.
  - 1.2.10. **"Supplemental Terms"** means terms and documentation, other than these Terms, that apply to specific Equipment, Services, or Orders. Supplemental Terms are set forth at [www.osoelectric.com/support](http://www.osoelectric.com/support) and its sub-pages. Supplemental Terms includes, without limitation, User Manual (<https://www.osoelectric.com/documents/oso-21-inch-operators-manual.pdf>), Product Warranty (<https://www.osoelectric.com/documents/oso-product-warranty.pdf>), and Privacy Policy (<https://www.osoelectric.com/documents/oso-privacy-policy.pdf>).
  - 1.2.11. **"Third-Party Services"** means, collectively, any goods, services, software (including open source software and code), data, or other products owned, licensed, or provided by a third party.
  - 1.2.12. **"Third-Party Service Provider"** means a third party that provides Oso Third-Party Services in connection with the Services provided under this Agreement or processes Licensee Confidential Information on behalf of Oso.
- 1.3. *Interpretation.* Words such as "including", "for example", and "such as" depict non-exhaustive examples. Reference to a person includes a natural person and corporate or unincorporated body (whether or not having separate legal personality). Unless the context requires otherwise, words in the singular include the plural and vice versa and a reference to one gender includes a reference to the other genders. Capitalized words in different forms shall be construed as their defined form. A reference to law (or similar) is to such law as amended from time to time. Any obligation in the Agreement on a person not to do something includes an obligation not to cause, attempt, agree, or allow that thing to be done, whether directly or indirectly.
  - 1.4. *Headings.* The descriptive headings in the Agreement are intended for reference only and do not affect the construction, meaning, or interpretation of the Agreement.
2. **Equipment; Term**
    - 2.1. *Purchase.* Licensee is buying the Equipment described in the Order. Licensee is responsible for all actions of End Users in using the Equipment.
    - 2.2. *Term.* Subject to your compliance with the terms of the Agreement, Oso will provide maintenance services specified in Section 5 for the term specified in the applicable Order. The **"Term"** of the Agreement is the Initial Term plus all Renewal Terms. The **"Initial Term"** starts on the earlier of the date Licensee or its End Users purchase or begin using any component of the Equipment or Service, the date the Initial Order is executed by the parties, or the date specified in the applicable Initial Order (the **"Effective Date"**). The Initial Term ends on the last day of the Initial Term as specified in the Initial Order.



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- 2.3. *Restrictions on Use.* Licensee and any End User will operate the Equipment in accordance with the manual at [www.osoelectric.com](http://www.osoelectric.com). Neither Licensee nor any End User will bring a battery into any household for charging. Licensee is responsible for all activity of any End User and for complying with all Applicable Laws relating to the End Users use of the Equipment or Services.
- 2.4. *Damage to/Loss of the Equipment.* If the Equipment is lost or damaged as a direct or indirect result of a violation of Section 2.3, damaged through Licensee or an End User's act or omission, or damaged as a result of an act of nature, Licensee is responsible for the loss and Oso will have no obligations to Licensee for such loss or damage. If the Equipment is damaged, Licensee will pay the remainder of fees owed under the applicable Order.

### 3. **Software Services**

- 3.1. *Grant of License.* Subject to the terms of the Agreement, including payment of fees due hereunder and Licensee's and End Users' compliance with all Applicable Laws, Oso grants to Licensee a limited non-exclusive, non-transferable, non-sublicensable, revocable, personal license to access and use the Software Services selected and paid for by Licensee during Term, but only in accordance with the limitations in this Agreement and the terms of all applicable Orders. This license is only valid during the Term. Licensee's permitted scope of access to and use of the Software Service is restricted solely to access and use for its legitimate internal business purposes in accordance with the terms of the Agreement, including the Documentation and any applicable Supplemental Terms (the "**Permitted Purposes**").
- 3.2. *Restrictions on Use.* Licensee shall not: (a) distribute, transfer, sell, resell, rent, lease, sublease, license, sublicense, assign, operate as a service bureau or managed service, or effect any other kind of exploitation of or third-party access to the Software Service, or any element thereof; (b) copy, modify, adapt, alter, translate, or create derivative works of the Software Service, or any element thereof, including by use of frame or mirror thereof other than on Licensee's own intranets and for a Permitted Purpose, except to the extent expressly permitted by this Agreement; (c) disassemble, decompile, or reverse engineer the Software Service, including by any attempt to derive source code, or other trade secrets; (d) make any act or omission which may cause the Software Service to enter into the public domain or to become subject to any open source or open data licenses which could (i) cause the disclosure or distribution of the Software Service; (ii) cause redistribution of the Software Service at no charge as a condition for use, modification, or distribution of such other content, services, or code; (iii) result in licensing of the Software Service for the purpose of making derivative works; or (iv) otherwise restrict or impact the licensing or other use of the Service; (e) make any act or omission which may result in access of any kind to the Software Service by any person other than an End User authorized by Licensee or for any use other than a Permitted Purpose; (f) attempt to gain unauthorized access to the Service (for example, by impersonation of another user of the Service or provision of false identity information); (g) interfere with, degrade, or disrupt the integrity or performance of the Software Service, or any data contained therein (for example, via unreasonably excessive API usage, unauthorized benchmark testing, introduction of malicious software, or penetration testing); (h) transmit, store, or use any data or information in connection with the Software Service for which Licensee lacks sufficient ownership or other rights; (i) remove, alter, or obscure any proprietary or other notices or labels of Oso or its Third-Party Service Providers; (j) build or operate a competitive product or service; copy any ideas, features, functions, or content of the Service; or make any act or omission that would result in access to or use of the Software Service by a competitor of Oso or any employee or agent thereof; or (k) transmit, store, or use any infringing, obscene, threatening, libelous, or



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otherwise unlawful or tortious material in connection with the Software Service (including, without limitation, any illegal spam, material that is harmful to children, or material which violates third-party privacy rights)

#### 4. Fees

- 4.1. *Fees.* Licensee agrees to pay Oso the fees specified in any Order and all other fees due under the Agreement. Licensee authorizes Oso to charge the payment method provided by Licensee for the amount noted in the applicable Order. Oso accepts payment by credit card and bank account draft. Licensee certifies that the individual completing the payment link or providing the payment method is an authorized agent or user of the payment method. Licensee agrees to not dispute with its credit card company or bank any payment charged in accordance with the terms of this Agreement. Unless otherwise specified in an Order, all fees are non-refundable.
- 4.1.1. *Taxes.* All fees charged by Oso are exclusive of taxes, usage fees, or any other charges imposed by any local, state, or federal governmental or taxing authority in connection with the transaction and purchased Services ("**Taxes**"). Licensee will be responsible for payment of all Taxes, except for taxes based on Oso's net income. The total amount of any Order will be deemed not to include Taxes unless expressly stated otherwise, and Oso may invoice applicable Taxes separately from fees.
- 4.1.2. *Billing Notices.* Oso will send all invoices and notices of non-payment to Licensee at the email address provided to Oso. Email will be effective for any notice of non-payment. Licensee agrees to notify Oso in writing of any changes in its account information at least ten (10) days prior to the next billing date.
- 4.1.3. *Payment Schedule.* Licensee shall pay all initial fees associated with an Order on the effective date of the Order, or such other date specified therein. Subsequent fees will be invoiced by Oso, and the due date for receipt of such fees will be the date of the invoice. Payments invoiced but not received by Oso within thirty (30) days after the due date will accrue late charges equal to the lesser of one and one-half percent (1.5%) of the outstanding balance per month or the highest rate allowed by Applicable Laws. Oso reserves the right to retroactively bill Licensee for underpayments of fees owed during the Term.
- 4.1.4. *Recurring Payments.* Unless otherwise specified in an Order, Oso will automatically charge Licensee using the payment information on file for renewals, upgrades, additional Services purchased, and other fees chargeable under the Agreement and Order.
- 4.1.5. *Failed and Withheld Payments.* If Licensee is delinquent in its payments or a Licensee payment fails or is returned, Oso may, in its sole discretion, (a) terminate the Agreement or Order, (b) suspend or block Licensee's access to the Equipment until Oso receives payment in full, or (c) require other assurances to secure Licensee's payment obligations hereunder as a condition of continuing to provide Licensee access to the Equipment. Licensee agrees to compensate Oso for all of Oso's reasonable costs of collection of unpaid amounts owed under the Agreement (including court costs, filing fees, and attorneys' fees) and all charges incurred by Oso due to a returned payment.

#### 5. Maintenance Services; Warranty

- 5.1. *Service Warranty.* Oso warrants that it will use commercially reasonable efforts to provide the Equipment and Services to Licensee in accordance with the Agreement and the Equipment and Services will perform in material compliance with the Documentation. The foregoing warranties are conditioned on the following: (a)



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Licensee has paid all amounts due under the Agreement and is not in default of any provision of the Agreement; and (b) no changes to the Equipment or Services have been made or attempted by Licensee, or any End User.

- 5.2. *Equipment Services.* For ordinary wear and tear to the Equipment, Oso will provide electrical and mechanical repair services to the Equipment as specified in the Limited Warranty, excluding blade repairs, during the Term of the Order. The Limited Warranty is available at [www.osoelectric.com/support](http://www.osoelectric.com/support).
- 5.3. *No Other Warranties.* LICENSEE ACKNOWLEDGES AND AGREES THAT OTHER THAN AS EXPRESSLY PROVIDED HEREIN, THE EQUIPMENT AND SERVICES PROVIDED BY OSO ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR TRADEMARK RIGHTS; ANY WARRANTY OF AVAILABILITY; AND ANY WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. OSO DOES NOT WARRANT THAT THE EQUIPMENT OR ANY SERVICE WILL MEET LICENSEE'S REQUIREMENTS OR BE PROVIDED UNINTERRUPTED OR WITHOUT ERROR; OR, THAT ANY ERRORS OR DEFECTS WILL BE CORRECTED. THE WARRANTY SET FORTH IN SECTION 4.1 IS PROVIDED IN LIEU OF ALL OTHER WARRANTIES AND IS THE SOLE AND EXCLUSIVE WARRANTY FOR ANY FAILURE OF THE EQUIPMENT OR SERVICES. NO OTHER INFORMATION OR ADVICE GIVEN BY OSO, ORAL OR WRITTEN, WILL EXPAND THE SCOPE OF ANY WARRANTY UNLESS INCLUDED AS AN EXPRESS WARRANTY IN THE AGREEMENT.

## 6. Confidentiality; Data Collection

- 6.1. *Confidential Information.* During the Term, Oso and Licensee may send or have access (each, a "**Receiving Party**") to certain Confidential Information of the other party (the "**Disclosing Party**"). In this Agreement, "**Confidential Information**" means know-how, trade secrets, models, documentation, templates, artwork, manuals, software architecture, proprietary techniques, website or brand look and feel information, pricing, and other proprietary materials, and other information (a) that may be disclosed, in any manner and both prior to and after the Effective Date, or that may be otherwise received or accessed by such parties in connection with the Agreement; and (b) which is either identified as being Confidential Information or information that a reasonable business person would understand to be confidential. "**Confidential Information**" does not include: (i) information previously known to the Receiving Party without any obligation of confidentiality; (ii) information independently developed by or for the Receiving Party or Receiving Party's employees, consultants, or agents without reference to or use of the Confidential Information, as evidenced at a minimum by prior written records or other tangible documents in the possession of the Receiving Party; (iii) information which was lawfully acquired by the Receiving Party from a third party which at the time of acquisition was not under any obligation of confidentiality with respect to such information; (iv) information which is or becomes publicly available through no fault of the Receiving Party and without breach of the Agreement; (v) information the Disclosing Party authorizes the Receiving Party to share; (vi) solely with respect to Oso as Receiving Party, the Data.
- 6.2. *Confidentiality Obligations.* Each Receiving Party will use a commercially reasonable level of care, including by implementation of security controls described in Section 6, not to disclose or make available to any third party



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a Disclosing Party's Confidential Information, and not to use such for its own or for any third party's benefit, other than as necessary in performance of its obligations under or expressly permitted by the Agreement. Licensee agrees to restrict any Licensee Consultant to accessing Oso Confidential Information solely within the scope of access authorized by Oso in writing prior to Licensee Consultant making such access. If Licensee receives any information through the Service that relates to persons other than Customers, then Licensee shall (a) immediately notify Oso of its receipt of such information, including an explanation of how the information was obtained; (b) hold the information in strict confidence and not exploit the information in any manner; (c) cause, or if more applicable permit, deletion of the information from the Service; and (d) delete the information from its own records and systems and confirm such deletion in writing to Oso.

- 6.3. *Confidentiality Exceptions.* Notwithstanding Section 6.2, and in addition to the exceptions stated in Section 6.1, (a) Oso may disclose that Licensee is a customer of Oso; (b) Oso may disclose any information to Third-Party Services providers as necessary to provide the Services;; and (d) either party may disclose Confidential Information of the Disclosing Party to its officers, directors, employees, partners, agents, affiliates, or Third-Party Service Providers, but only those who have a need to possess and use the Confidential Information in connection with the Services and who have agreed to confidentiality and use restrictions applicable to the Confidential Information at least as stringent as those in the Agreement.
- 6.4. *Injunctive Relief.* Breach of this Agreement may cause irreparable harm for which money damages are insufficient. In addition to monetary damages, either party may seek injunctive or other relief if there is a violation or threatened violation of any intellectual property rights or actual or potential disclosure of Confidential Information. With respect to such relief, the parties agree to submit to the exclusive personal jurisdiction and venue of the appropriate federal or state courts located in Dallas, Texas.
- 6.5. *Equipment Data.* The Equipment contains devices that monitor the Equipment's condition, performance and operation, battery charge, distance travelled, location and other information (the "**Data**"), and may transmit such Data to Oso or one of its Third Party Service Provider. Some or all of these communications are turned on all the time, even when the Equipment is turned off.

## 7. Termination

- 7.1. *Termination at End of Term.* A party may terminate the Agreement or any Order by providing the other party notice of the party's intent to not renew no fewer than sixty (60) days prior to the end of the then-current Term, and such termination will take effect at the end of the Term.
- 7.2. *Termination for Breach.* Either party may terminate this Agreement and any Order issued under it by giving the other party a written notice of termination if the other party (a) materially breaches the Agreement or applicable order and fails to cure such breach within thirty (30) days of written notice describing such breach or (b) becomes the subject of a voluntary or involuntary petition in bankruptcy, or any proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, and such petition is not dismissed within sixty (60) days of filing. Additionally, Oso may terminate the Agreement and any Order issued under it by giving Licensee written notice of termination if Licensee or any End User (w) fails to pay all applicable fees and related costs or expenses; (x) breaches Sections 2.3, 2.4, 3.2, 4, 6, or 8; or (y) otherwise breaches this Agreement and fails to cure such breach within thirty (30) days of written notice describing such breach.



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7.3. *Procedure upon Termination.* Upon the effective date of termination of the Agreement or any Order, Licensee shall return all Equipment on that Termination Date to Oso. If Oso physically (by itself or through a Third Party Service Provider) picks up the Equipment from Licensee then the Licensee agrees to pay for the cost of that collection. Upon any termination, Licensee will pay Oso all fees due under the Agreement, including fees for the remainder of the then-current Term as to the Orders or Agreement terminated. Licensee shall pay Oso for any damage to the Equipment as set forth in Section 2.4. Upon any termination, Licensee will immediately return to Oso, or, at Oso's request, securely destroy, all Oso Confidential Information in its possession or under its control and shall subsequently certify in writing that it has completed such action.

## 8. Indemnification

8.1. *Licensee Indemnity.* Licensee will indemnify and hold harmless Oso and its officers, directors, managers, partners, members, employees, and agents (collectively the "**Oso Parties**") from and against any and all Losses resulting from any Action brought by any third party against any of the Oso Parties or Third-Party Service Provider arising out of or relating to (a) fraud, negligence, willful misconduct, or breach of Applicable Laws by any of the Licensee Parties or End Users; (b) breach of any provision of this Agreement, and subsequent failure to cure in the applicable cure period set forth in Section 7.2 hereof, by any of the Licensee Parties or End Users; (c) use of the Equipment Services or any results thereof by any of the Licensee Parties or End Users; or (d) any arrangement or dispute between Licensee or End Users.

8.2. *Defense.* If a party would be obligated under this Agreement to indemnify or hold harmless for Losses resulting from or in connection with an Action, the party will additionally be obligated to defend the Action in accordance with this Section 8.3. As conditions precedent to the effectiveness of a party's indemnification and defense obligations in this Agreement, (a) a party seeking such indemnification or defense must provide the indemnitor prompt written notice of the commencement of the Action, but the failure to provide prompt written notice will not excuse the indemnitor of its obligations unless and only to the extent such delay or failure materially prejudices the indemnitor's defense of the Action; (b) the indemnitor must be permitted, at its option, to control the defense of the Action; and (c) the indemnified parties must fully cooperate with the indemnitor in the defense of the Action. The indemnified parties may participate in the defense of the Action in an advisory capacity at their own cost. The indemnitor shall not settle any Action that involves an admission of liability or any equitable relief on the part of the indemnified parties without such indemnified parties' prior written consent.

## 9. Limitations of Liability

9.1. *Limitation of Liability.* THIS SECTION 9, SECTION 5 (WARRANTY), AND SECTION 8 (INDEMNIFICATION) SET FORTH OSO'S ENTIRE, AGGREGATE TOTAL LIABILITY AND LICENSEE'S EXCLUSIVE REMEDIES IN CONNECTION WITH THE AGREEMENT. THE PROVISIONS OF THIS SECTION 9 WILL CONTROL IN THE EVENT OF A CONFLICT WITH ANY OTHER PROVISIONS OF THE AGREEMENT OR ANY ORDER. IN NO EVENT WILL OSO BE LIABLE FOR ANY AMOUNT IN EXCESS OF AMOUNTS PAID UNDER THE AGREEMENT DURING THE TWELVE-MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE LOSS OR LIABILITY. THE CUMULATIVE AMOUNT OF ANY PREVIOUS DISCHARGES OF LIABILITY WILL REDUCE THE REMAINING AMOUNT, IF ANY, AVAILABLE UNDER THIS CAP.

9.2. *Consequential Damages.* UNDER NO CIRCUMSTANCES WILL OSO BE LIABLE FOR ANY LOST PROFITS OR ANY TYPE OF INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT



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LIMITED TO, LOST REVENUE, COST OF REPLACEMENT GOODS, LOSS OF TECHNOLOGY, RIGHTS, OR SERVICES, LOSS OF INFORMATION, LOSS OF REPUTATION OR GOODWILL, OR INTERRUPTION OR LOSS OF USE OF SERVICE OR EQUIPMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING UNDER ANY THEORY OF LAW, INCLUDING WITHOUT LIMITATION CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE.

- 9.3. *Claims Period.* LICENSEE MUST BRING ANY ACTION RELATING TO THIS AGREEMENT WITHIN TWO (2) YEARS OF THE DATE OF THE EVENT GIVING RISE TO THE CLAIM OR SUCH CLAIM WILL BE WAIVED.
- 9.4. *Reliance Rationale.* THE PARTIES ACKNOWLEDGE THAT OSO SET ITS PRICES AND ENTERED INTO THE AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH IN THE AGREEMENT, THAT WITHOUT THESE LIMITATIONS THE SERVICES FEES WOULD BE SIGNIFICANTLY HIGHER, AND THAT THE LIMITATIONS AND DISCLAIMERS FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. THE PARTIES AGREE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THE AGREEMENT WILL SURVIVE AND APPLY EVEN IF FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

## 10. Notices

A party shall send any notices or other communications provided for by the Agreement to the other party in writing. Notice to Oso must be sent to Oso Electric Equipment, LLC / Attn: General Counsel / 8480 Esters Blvd, Suite 100 / Irving, TX 75063, in all cases with an email copy to [legal@osoelectric.com](mailto:legal@osoelectric.com). Notice to Licensee will be sent to the address, fax number, or email address Oso has on file for Licensee. Any notice shall be considered effective (a) on the day it is given if personally delivered, (b) on the day after it is given if sent prepaid using a nationally known carrier of overnight mail, (c) four days after it is given if deposited in the United States mail, postage prepaid, sent certified or registered mail, or (d) on the following business day if sent by email. Any notice sent to Oso under clause (d) must be accompanied by notice sent under clauses (a), (b), or (c) as a condition of its effectiveness, but routine communications as contemplated by the terms of the Agreement, and other notices which the Agreement specifies will be effective if sent by email, do not require an accompanying notice. Either party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it will become effective or by updating its contact information in the Oso Service. Licensee must provide current billing contact information in its Oso Service account. Missed invoices or payment notices not received due to Licensee's failure to update its billing information will not absolve Licensee from liability for failure to make timely payment.

## 11. General Provisions

- 11.1. *Independent Contractors.* Nothing herein shall create any association, joint venture, partnership, or agency relationship of any kind between the parties. Neither party is authorized to incur any liability, obligation, or expense on behalf of the other or use the other's monetary credit in conducting any activities under the Agreement.
- 11.2. *Non-exclusivity.* The agreements and rights in this Agreement are non-exclusive, and each party will have the right, without liability or accountability to the other, to engage in its own business activities, alone or in conjunction with contractual relationships with others, subject to the limitations in this Agreement.



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- 11.3. *Dispute Resolution.* In the event a dispute arising out of or related to the Agreement occurs, the following provisions will apply:
- 11.4. The parties agree first to make all reasonable efforts to settle the dispute by direct negotiations with a view to reaching a mutually satisfactory solution. If the parties are unable to settle the dispute by direct negotiations, the parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to arbitration.
- 11.5. Subject to Section 6.4 and subsection 11.3(a), the parties agree to settle any dispute arising out of or related to the Agreement, or the breach thereof, by arbitration in Dallas, Texas in accordance with the rules of the American Arbitration Association. A single arbitrator shall be agreed upon by the parties knowledgeable in the matters covered by the Agreement or, if the parties cannot agree upon an arbitrator within thirty (30) days, then the parties agree that a single arbitrator shall be appointed by the American Arbitration Association. The arbitrator may award reasonable attorneys' fees and costs as part of the award. The award of the arbitrator shall be binding and may be entered as a judgment in any court of competent jurisdiction.
- 11.6. *Successors and Assigns.* The Agreement will be binding upon and inure to the benefit of the parties to the Agreement and their respective heirs, successors, and permitted assigns. Licensee may not assign or transfer, by operation or law or in any other manner, any of its rights, duties, or obligations under the Agreement without the prior express written consent of Oso, and any attempt to do so without the prior express written consent of Oso will be void. A sale of all or substantially all of the assets of Licensee, or any merger, consolidation, or other reorganization which results in the change of control of Licensee, will be deemed an assignment and subject to this Section 11.4.
- 11.7. *Entire Agreement.* The Agreement, including all Orders, these Terms, any Supplemental Terms, and any terms and conditions referenced therein, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes and replaces all prior and contemporaneous agreements (including any prior confidentiality or non-disclosure agreement), oral or written, between the parties relating thereto. No documents (including any purchase orders or statements of work) or terms supplied by Licensee or any other party will be incorporated into the Agreement regardless of any contrary language therein or in any Order.
- 11.8. *Amendment.* Oso may modify the Agreement or any part thereof, other than an Order, at any time, in its sole discretion, by posting amended terms on [www.osoelectric.com](http://www.osoelectric.com). Unless otherwise indicated through the Service or in the updated terms, any modifications will be effective immediately. Oso may, but is not required to, provide notice of the modifications by email or other form of communication. Licensee acknowledges that it has the responsibility to periodically check the terms posted on [www.osoelectric.com](http://www.osoelectric.com) or referenced in the Agreement to remain aware of any updates. Licensee agrees that its continued use of the Equipment or Service after any such modification will be governed by the Agreement as modified. Except for modifications that Oso makes pursuant to this Section, or as otherwise agreed between Licensee and Oso in a writing signed by both parties, no other modifications to the Agreement shall be effective.
- 11.9. *Conflicts.* In the event of a conflict between any parts of the Agreement, the following order of precedence will control: an amendment made pursuant to Section 11.6 (except with respect to a conflict with the express terms of an Order), Supplemental Terms, Orders, and these Terms. Where the provisions of multiple documents at the same level conflict, the provisions of the most recent document will control.



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- 11.10. *Governing Law; Venue.* The Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to choice of law rules. For any claims or causes of action arising out of or connected to the Agreement that are not covered by the jurisdiction and venue provisions in Sections 6.4 and 15.3(b), the parties agree to the exclusive personal jurisdiction and venue of the federal and state courts located in Dallas, Texas.
- 11.11. *Survival.* The following provisions, and any provisions which by their nature should survive termination of the Agreement, will survive termination of the Agreement for any reason: Sections 1, 2.3, 2.4, 3.2, 4, 5, 6, 7.3, and Sections 8 through 11.
- 11.12. *Severability.* All provisions of the Agreement are severable. If any provision or portion of the Agreement is determined to be unenforceable, then it shall be modified to the minimum extent necessary to capture the original intent of the language, and the remaining portions of the Agreement shall remain in full effect.
- 11.13. *Waiver.* A party may waive any provision of the terms of the Agreement, or a failure of the other party to comply with it, but only by a writing signed by the waiving party. A waiver in one instance will not operate as a waiver in any others, and a party's failure to object to the other party's violation of the Agreement will not prevent the party from making such objection later. No usage of trade or course of dealing between or among any persons will be deemed effective to modify, amend, or discharge any part of the Agreement or any rights or obligations of any party hereunder.
- 11.14. *No Third-Party Beneficiaries.* The Agreement is made for the sole protection and benefit of Licensee and Oso and their respective successors and permitted assigns, and no other person or entity shall be deemed a third-party beneficiary hereof or have any right of action on the Agreement.
- 11.15. *Electronic Records.* Licensee consents to the use of electronic signatures, including by means of click-to-accept, when necessary to effectuate any part of the Agreement. Licensee consents to receive electronic delivery of communications related to the Agreement, Equipment or Service, including product notices and marketing communications.
- 11.16. *Construction.* By signing the Agreement, Licensee represents and agrees that it is a sophisticated person with experience in the industry, it has fully reviewed the Agreement, and it has had the opportunity to consult legal counsel prior to entering into the Agreement, and that as a result there will not be applied against any party any rule of construction that vague or ambiguous terms are to be construed against the drafting party or a party attempting to rely on the terms.



844.676-0123



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