



Standard Terms and Conditions  
[enfusionenergy.com](http://enfusionenergy.com)

THIS DOCUMENT CONTAINS PREMIER ENERGY HOLDINGS, INC., AND ALL OF ITS SUBSIDIARIES' (COLLECTIVELY REFERRED TO AS "PEH"), NORTH AMERICAN STANDARD LIMITED WARRANTY, GENERAL SALES POLICIES AND CONTROLLING TERMS AND CONDITIONS. THIS NORTH AMERICAN STANDARD LIMITED WARRANTY, GENERAL SALES POLICIES AND CONTROLLING TERMS AND CONDITIONS SHALL NOT BE ALTERED OR AMENDED EXCEPT PURSUANT TO AN AUTHORIZED PEH EXTENDED WARRANTY.

*PEH Standard Terms & Conditions are subject to change at any time. The latest version is available at [PremierEnergyHoldings.com](http://PremierEnergyHoldings.com).*

**EFFECTIVE DATE AND NO AGREEMENT OR AMENDMENTS**

This document and its provisions are effective as of February 1, 2022, and valid until further written notice from PEH. This document and its provisions shall supersede all pre-existing sales policies, terms and conditions, and standard limited warranties issued by PEH, whether in writing or orally. This document does not reflect an offer or an agreement to sell PEH products to any person or entity and should not be construed as such.

**GENERAL SALES POLICIES AND CONTROLLING TERMS AND CONDITIONS**

PEH OBJECTS TO, AND SHALL NOT BE BOUND BY, ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS, WHETHER PRINTED OR OTHERWISE AND REGARDLESS OF WHETHER SUCH ADDITIONAL TERMS OR CONDITIONS ARE IN PURCHASER'S PURCHASE ORDER OR IN ANY OTHER COMMUNICATION FROM PURCHASER TO PEH.

The terms and conditions appearing in this agreement together with PEH's standard or custom product specifications (if applicable), constitute the entire agreement between PEH and Purchaser. PEH objects to, and shall not be bound by, any additional or different terms, whether printed or otherwise and whether in Purchaser's purchase order or in any other communication from Purchaser to PEH, unless PEH has specifically agreed in writing to those additional or different items. Prior courses of dealing, trade usage and verbal agreements not reduced to a writing signed by PEH to the extent they differ from, modify, add to, or detract from this agreement shall not be binding upon PEH. There are no other agreements, promises or understandings, either verbal or written, which are not fully expressed in this agreement. No statements, recommendations or assistance by either party have been relied upon by either party or shall constitute a waiver by either party of any of the provisions hereof. This agreement may be amended or altered only if agreed to in writing, signed by the party against which any such amendment or alteration is asserted.

**a. Acceptance and Payment**

PEH reserves the right to reject and refuse to process a purchase order for any reason whatsoever. If a Purchase Order (PO) or a line item contained in a PO is canceled by the Purchaser within five (5) days after PO acceptance by PEH, PEH reserves the right to apply cancellation charges of up to twenty percent (20%) of the invoice price of the canceled item(s).

The due date of payment shall be measured from the invoice date. Terms are net thirty (30) days from date of invoice of each shipment, unless otherwise stated. Any portion of the purchase price which is not paid in accordance with applicable payment terms shall accrue interest at a rate equal to one and one-half percent (1 1/2 %) per month or the highest rate allowed by law, plus any attorney fees and other costs associated with collections. PEH shall apply payments received against outstanding invoices and/or interest charges at its discretion.

**b. Prices and Taxes**

All prices and discounts are subject to change by PEH, with or without prior notice. Prices and discounts applicable to unshipped quantities of existing purchase orders, as well as to new purchase orders, shall be those in effect at the time of shipment.

A representation by Purchaser of facts, upon which PEH relies in basing applicable discount or term of sale, shall be taken as a representation that such facts are true; and PEH shall have the right to revise any price or discount, including products already shipped, invoiced, or paid, should such representations be untrue.

All prices are net of, and do not include, any federal, state, or local income, property, sales, use, excise, value-added, or other taxes, all of which shall be the responsibility of, and paid by, Purchaser.

c. Quotations

No price quotations for PEH products shall be binding on PEH unless confirmed in writing by PEH. Prices so quoted will be binding on PEH for thirty (30) days from the date of the price quotation unless noted in the quotation by PEH. Price quotations do not include accessories or components not manufactured by PEH. Clerical errors on any price quotations are subject to correction by PEH. Quotations are subject to change by PEH with notice to Purchaser.

d. Delivery

Shipments may be made by common carrier, unless otherwise specified. Special arrangements, such as air freight, parcel shipment, overnight delivery and special packaging requirements must be specifically requested by Purchaser and, if agreed to in writing by PEH, will be at Purchaser's expense.

Any dates or schedules specified for the delivery of goods covered hereby are approximate only and are based upon then existing conditions and/or conditions reasonably anticipated through each shipping date. In addition to the limitation on damages described herein, PEH shall not, under any circumstances be liable for any loss, cost, expense, delay, damage, inconvenience, or consequential damages for failure (however caused) to meet a specific shipping date, or for any delay, loss, or damage in transit, or due to the unavailability of sufficient products to fill a purchase order. PEH reserves the right to allocate available inventories among its customers, including Purchaser, in the event that such inventories are inadequate to meet demand.

Title to the product shipped shall pass to Purchaser when PEH delivers such goods (i) to the carrier for delivery to Purchaser or (ii) to the dock for export shipments to Purchaser, and all risks of damage, loss, or delay shall thereupon pass to Purchaser. PEH shall promptly, after shipment, notify Purchaser that the goods have been delivered to the carrier or to the dock and shall furnish Purchaser with all documents, if any that are required to enable Purchaser to obtain possession of the product.

**STANDARD LIMITED WARRANTY**

Except as set forth in an Extended Warranty, for two (2) years from the date of manufacture, PEH hereby warrants to the purchaser ("Purchaser") of PEH's products that, for the applicable warranty period, the products purchased will (i) be free from defects in workmanship and material at the time of shipment, (ii) perform consistently with samples previously supplied and (iii) conform to the specifications published or agreed to in writing between the purchaser and PEH. This limited warranty extends only to products purchased directly from PEH. If a product is purchased other than from an authorized distributor, dealer or directly from PEH, such product must be installed by a PEH Certified Installer for this limited warranty to apply. This limited warranty is not assignable or transferable to any subsequent purchaser or user.

**e. THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS, OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASER'S SOLE AND EXCLUSIVE REMEDY FOR PEH'S BREACH OF ITS OBLIGATIONS HEREUNDER, INCLUDING BREACH OF ANY EXPRESS OR IMPLIED WARRANTY OR OTHERWISE, UNLESS PROVIDED ON THE FACE HEREOF OR IN A WRITTEN INSTRUMENT MADE PART OF THIS LIMITED WARRANTY, SHALL BE FOR THE PURCHASE PRICE PAID TO PEH FOR THE NONCONFORMING OR DEFECTIVE PRODUCT OR FOR THE REPAIR OR REPLACEMENT OF NONCONFORMING OR DEFECTIVE PRODUCT, AT PEH'S ELECTION. ANY PEH PRODUCT WHICH PEH DETERMINES TO BE DEFECTIVE WITHIN THE WARRANTY PERIOD SHALL BE, AT PEH'S SOLE OPTION, REPAIRED, REPLACED WITH FACTORY REFURBISHED OR NEW PRODUCT WITH A MODEL OR VERSION NO OLDER THAN THAT OF ORIGINALLY PURCHASED PRODUCT, OR A REFUND OF THE PURCHASE PRICE PAID. REPAIR OR REPLACEMENT OF PRODUCT DOES NOT EXTEND THE ORIGINAL WARRANTY PERIOD.** Some states do not allow limitations on how long an implied warranty lasts, therefore, the limitations and exclusions relating to the products may not apply.

**f. WITHOUT LIMITING THE GENERALITY OF THE EXCLUSIONS OF THIS LIMITED WARRANTY, PEH SHALL NOT BE LIABLE TO THE PURCHASER OR ANY THIRD PARTY FOR ANY AND ALL (i) INCIDENTAL EXPENSES OR OTHER CHARGES, COSTS, EXPENSES (INCLUDING COSTS OF INSPECTION, TESTING, STORAGE, OR TRANSPORTATION) OR (ii) DAMAGES, INCLUDING CONSEQUENTIAL, SPECIAL DAMAGES, PUNITIVE OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST TIME AND LOST BUSINESS OPPORTUNITIES, REGARDLESS OF WHETHER PEH IS OR IS SHOWN TO BE AT FAULT, AND REGARDLESS OF WHETHER THERE IS OR THERE IS SHOWN TO HAVE BEEN A DEFECT IN MATERIALS OR WORKMANSHIP, NEGLIGENCE IN MANUFACTURE OR DESIGN, OR A FAILURE TO WARN.**

PEH's liability arising out of the sale or delivery of its products, or their use, whether based upon warranty contract, negligence, or otherwise, shall not in any case exceed the cost of repair or replacement of the product and, upon expiration of any applicable warranty period, any and all such liability shall terminate.

Without limiting the generality of the exclusions of this limited warranty, PEH does not warrant the adequacy of any specifications provided directly or indirectly by a purchaser or that PEH's products will perform in accordance with such specifications. This limited warranty does not apply to any products that have been subject to misuse (including use in a

manner inconsistent with the design of the product), abuse, neglect, accident or improper installation or maintenance, or to products that have been altered or repaired by any person or entity other than PEH or its authorized representatives.

Unless otherwise specified in an Extended Warranty authorized by PEH for a specific product or product line, this limited warranty does not apply to performance caused by abrasive materials, corrosion due to aggressive conditions or improper voltage supply.

With respect PEH products, the following conditions automatically void this limited warranty:

1. Lightning damage (often referred to as high voltage surge damage).
2. Electrical failures due to the use of non-approved overload protection.
3. Unauthorized disassembly.

## **MISCELLANEOUS**

Compliance with Laws, Ordinances and Regulations PEH shall use reasonable efforts to cause the products to comply with federal safety, health and environmental regulations and insurance codes. However, PEH shall not be responsible for compliance of the products with local interpretations of such federal regulations or insurance codes, nor with any local laws, ordinances, codes and/or regulations which may at any time be in effect at any location where the products are to be used, unless such responsibility shall be expressly assumed by PEH in writing.

### *Change of Design*

PEH shall be entitled to make any and all changes in details of design, construction or arrangement of the product as PEH in its sole discretion determines will constitute an improvement upon the product or any specifications or designs previously furnished to the Purchaser.

### *PEH Remedies*

In addition to and notwithstanding any other remedy to which PEH may be entitled by law, in the event of Purchaser's breach of its obligations hereunder, or if Purchaser should cancel a purchase order, in whole or in part, or refuse to accept the products shipped hereunder, or wrongfully rejects or revokes its acceptance of products shipped that conform to a purchase order, Purchaser shall pay for, and PEH shall be entitled to recover from Purchaser, all special engineering, design, tooling, manufacturing, storage, or transportation costs incurred in connection with PEH's performance of the purchase order.

### *Infringement*

With respect to PEH's own standard designs and specifications, or specialty products which PEH has engineered and designed, PEH shall defend, indemnify and hold Purchaser harmless from and against any loss, damage, cost or expense arising out of any third-party claims for patent or trademark infringement relating to such products, so long as Purchaser promptly notifies PEH in writing of any such claim and gives PEH such authority, information and assistance as PEH may request in connection with the defense thereof.

Purchaser shall defend, indemnify and hold PEH harmless from and against any loss, damage, costs or expenses arising out of any claims of patent or trademark infringement relating to products manufactured by PEH in accordance with any designs or specifications furnished by Purchaser.

### *Special Tooling*

Any special tools, dies, jigs, molds, or other equipment manufactured or purchased by PEH, regardless of whether included as part of PEH's pricing, shall remain PEH's exclusive property.

### *Confidentiality*

All commercial, financial or technical information furnished by PEH shall be considered confidential and Purchaser shall not disclose any such information to any other person or use such information itself for any purpose other than the re-sale or the intended use of the products. This Section shall apply to drawings, specifications or other documents prepared by us. Unless otherwise agreed in writing, no information disclosed in any manner or at any time by Purchaser to PEH shall be deemed secret or confidential, and Purchaser shall have no rights against PEH with respect thereto, except such rights as may exist under applicable patent laws.

### *Independent Contractors*

PEH and Purchaser are independent contractors and neither has the authority to assume or to create any obligation on behalf of or in the name of the other.

### *Set Off*

PEH shall be entitled to set off any amount or apply any sum due from Purchaser to PEH or any other affiliated company of PEH.

### *Force Majeure*

PEH shall not be responsible or liable for any delays or failures in manufacture or delivery due to any cause or condition beyond the reasonable control of PEH. PEH shall not be responsible or liable for any delays or failures to deliver or to perform its contractual responsibilities if due to causes beyond its reasonable control or the reasonable control of its suppliers, or due to acts of God, acts of civil or military authority, judicial action, fires, strikes, floods, wars, transportation delays, or inability due to causes beyond its reasonable control to obtain necessary labor, materials or manufacturing facilities. In the event of such a condition or circumstance, PEH shall have the right, at its option, to cancel any purchase orders or any part thereof without any resulting liability.

### *Applicable Law*

The terms and conditions expressed herein shall be construed and its performance governed by the internal laws (as opposed to conflicts of law provisions) of the State of Colorado.

### *Headings*

All headings or captions used herein are for convenience of reference only and shall not limit or define these terms and conditions.

### *Interpretation*

Whenever the term "include", "includes", or "including" is used in this document or any document referenced in this document, it shall mean "including, without limitation," (whether or not such language is specifically set forth) and shall not be deemed to limit the range of possibilities to those items specifically enumerated. The words "hereof", "herein" and "hereunder" and words of similar import refer to this document and any document referenced in this document as a whole and not to any particular provision. Terms defined in the singular have a comparable meaning when used in the plural and vice versa.

