



## TERMS OF SALE FOR SAMPLE PRODUCTS

The following Terms of Sale for Sample Products ("**Terms**") apply to the right to use Sila Nanotechnologies, Inc. ("**Sila**") proprietary battery components ("**Products**") set forth in the applicable quote provided by Sila or purchase order accepted by Sila ("**Order**"), as purchased by the party specified in the applicable Order ("**Customer**"). Sila and Customer may be referred to individually as "**Party**" or collectively as "**Parties**."

**1. Permitted Use.** Customer may use the Products solely for testing and/or evaluation purposes ("**Permitted Use**"). Customer shall not disassemble, deconstruct, reverse engineer, design around, generate derivatives, or use the Products for any commercial purpose. Customer shall not sell, transfer, disclose, or otherwise provide access to the Products to any third party without the express prior written consent of Sila and Customer is liable to Sila for any causes of action that result from any breach of this section.

**2. Confidentiality.** Customer agrees to maintain the confidentiality of all proprietary and non-public information disclosed by Sila. The Products are and remain the property of Sila. The results of any testing and evaluation relating to the Products are the property of Customer but may not be shared with third parties without Sila's prior written consent.

**3. Storage and Handling.** Customer agrees to handle, use, store, test, and dispose of the Products in compliance with all applicable laws and regulations, including any applicable export laws, and in accordance with any instructions provided. Customer agrees that the Products are experimental, may have unpredictable and unknown properties, and must be handled with caution and only by qualified individuals. Customer shall indemnify, defend, and hold harmless Sila against any damages, costs, or expenses for any loss, claim, injury, or liability of any kind that may arise from Customer's use, storage, handling, or disposition of the Products.

**4. Fees, Payment and Delivery.** Prices for Products will be as stated in an Order. All prices are denominated in U.S. Dollars and do not include taxes, duties, or shipping costs, which are the responsibility of Customer unless otherwise agreed between the parties in writings. Payment terms are subject to approval of Customer's credit. Except as otherwise provided in the Order, Sila will invoice following shipment. Customer will pay within 30 days from the invoice date. If Customer fails to pay an undisputed invoice on time, Sila may charge interest on the overdue amount at the rate of 1.5% per month (or the maximum rate allowed by law, if lower). Sila will ship the Products to Customer's specified location. Delivery dates are estimates and Sila is not liable for delays. All orders are non-cancelable once confirmed by Sila. All shipments will be made Incoterms 2020 Ex Works (Sila's facility), unless otherwise agreed between the parties in writing.

**5. Intellectual Property.** Sila retains ownership of its Products, including any enhancements, derivative works or modifications thereto ("**Background IP**"). Customer agrees that they will not create any intellectual property related to the Products ("**Foreground IP**"). If any Foreground IP is incidentally created, inventorship and ownership shall be determined according to U.S. patent law, subject to Sila's ownership of the Background IP. To the extent Customer acquires ownership rights in any Foreground IP created using or otherwise based upon the Products, Customer hereby grants to Sila a non-exclusive, perpetual, worldwide, fully paid and royalty-free right and license, with the right to sublicense, to use, make, have made, sell, offer to sell, import, reproduce, create derivative works of, distribute, and otherwise use and exploit such Foreground IP for Sila's business purposes.

**6. Disclaimers.** THE PRODUCTS ARE PROVIDED "AS IS" WITH NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING THAT USE OF THE PRODUCTS WILL NOT INFRINGE ANY PATENT OR PROPRIETARY RIGHTS OF ANY THIRD PARTY. EXCEPT FOR BREACHES OF CONFIDENTIALITY, PERMITTED USE, OR INDEMNITY OBLIGATIONS. SILA'S TOTAL LIABILITY TO CUSTOMER FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY, IS LIMITED AND SHALL NOT EXCEED \$1,000.00. THE FOREGOING FORM AN ESSENTIAL BASIS OF THESE TERMS.

**7. Termination.** These Terms will continue in full force and effect until (a) are superseded by an applicable master supply/sales agreement negotiated and executed between authorized representatives for the Parties or (b) terminated by either Party upon 30 days written notice to the other Party. Each party's obligations will survive termination of these Terms.

**8. Dispute Resolution.** These Terms and any action related thereto will be governed by the laws of the State of California, without giving effect to any conflicts of laws principles, and any disputes under these Terms may be brought in the state and Federal courts for Santa Clara County, California. Customer acknowledges that its breach of these Terms may cause irreparable damage to Sila and hereby agrees that the Sila will be



entitled to seek injunctive relief for any breach of confidentiality obligations under these Terms, as well as such further relief as may be granted by a court of competent jurisdiction.

**9. Assignment.** Customer may not assign or transfer any rights or obligations under these Terms without the prior written consent of Sila. Any attempted assignment or transfer in violation of the foregoing will be null and void. All notices must be in writing.

**10. Applicable Terms.** Except where the Parties negotiate and execute by authorized representatives a master supply or sales agreement for the Products specified in an Order, these Terms, including the applicable Orders, are the entire agreement of the Parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such matters. Sila objects to any different or additional terms in Customer's documents (e.g., purchase orders, confirmations) unless Sila expressly agrees to them in writing. Sila may update these Terms from time-to-time and the then-current Terms will apply to the applicable Orders. For any conflict between these terms and any ordering or other documents, these Terms will apply.