

Terms & Conditions of Purchase



The following Terms and Conditions of Purchase apply to all Purchase Orders for Materials, Equipment or Services (collectively, “Goods”) issued by WEG Transformers USA LLC (collectively, “Buyer”) to the Seller. In the event of conflict between the following terms and any terms in any Purchase Order or other documentation originated with the Buyer, these Terms and Conditions shall control unless expressly and specifically modified in writing by the Buyer:

Acceptance. This Purchase Order constitutes Buyer’s offer to Seller upon the terms and conditions set forth herein and shall become a binding contract on such terms and conditions when it is accepted either by seller’s acknowledgement or by Seller’s performance. This Purchase Order expressly limits acceptance to the terms and conditions stated herein. Any additional or different terms and conditions proposed by Seller are objected to and hereby rejected by Buyer. Any reference in this Purchase Order to Seller’s quotation or proposal does not imply acceptance of any terms or conditions in that quotation or proposal. Upon acceptance, this Purchase Order shall constitute the agreement between Buyer and Seller. Except as provided in section “Changes” herein, this Purchase Order may not be altered or modified except in writing duly executed by an appropriate representative of each party.

Seller understand that time is of essence.

Changes. The quantities, prices, terms and conditions or other pertinent specifications of this Purchase Order shall not be changed except by Buyer’s written authorization. Where the supplies to be furnished are to be specifically manufactured, in accordance with the drawings and/or specifications, Buyer may, at any time, by written order make changes in (i) drawings, designs, or specifications, (ii) method of shipment or packing end (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or time required for performance of the work under schedule or both. Seller shall submit its claim for adjustment within thirty (30) days or earlier from the date of cost of property which has become obsolete or excess as the result of any change must be included in Seller’s claim for adjustment, Buyer shall have the right to prescribe the disposition of such property .

Specification. Specifications, this may include drawings or any other data, are furnished by Buyer, this Purchase Order shall be based upon such specifications blueprints and specifications and approval of samples by Buyer shall not relieve Seller from strict an full compliance with such specifications as provided. Goods not conforming to such specification may be rejected.

Payment. Payment for any item on this Purchase Order shall not constitute approval or acceptance of such goods by Buyer, and Buyer’s right of inspection shall survive payment. Seller shall repay Buyer the purchase price of any goods found to be defective, not to conform to the specifications, or samples or not shipped in accordance with Buyer’s delivery schedule and returned to Seller. Rejected goods shall be returned at the expense of Seller upon rejection and Seller shall bear all risk of loss as to rejected goods. Buyer may elect to retain rejected goods and remedy any direct or non- conformity to specifications or samples. The cost of effecting such remedy shall be negotiated between the parties and the price to be paid by Buyer shall be adjusted accordingly.

Delivery. Deliveries shall be strictly in accordance with the schedule set out or referred to in this Purchase Order and in the exact quantities ordered. Shipments in excess of quantities ordered or in advance scheduled delivery dates as shown herein are not to be made without Buyer’s written approval. Buyer reserves the right to return at Seller’s risk and expense any shipments received contrary to this instruction. All costs incurred by Buyer as a result of Seller’s failure to make delivery at the time and place specified herein, shall be charged to Seller. Seller shall engineer, furnish and install all goods reasonably implied by this order or any specification incorporated herein and delivery shall not be considered complete until Buyer has given its final acceptance.

Method of Delivery. All deliveries shall be shipped per the terms set forth in Seller’s Purchase Order. If Seller is solely responsible for increases in shipping costs over those specified in the Purchase Order in order to meet the agreed upon delivery dates, Seller shall be responsible for such increased shipping costs.

Sales and Similar Taxes. The Seller’s prices shall include Federal, State or municipal sales, use, excise or similar taxes, consequently, in addition to the price specified herein, the amount of any present or future sales, use, excise or other similar tax applicable to the sale or use of the material purchased.

Terms. Unless specified to the contrary in writing by the Buyer, payment terms are Net Thirty (30) days from date of Seller’s invoice.

Cancellation by Buyer. Buyer reserves the right to cancel this Purchase Order or any part hereof at any time by written or email notice or oral notice confirmed in writing even though Seller is not in default hereunder. If this order is cancelled for Buyer’s convenience any claim of Seller shall be settled on the basis of reasonable costs it has incurred in the performance of this order. If, however, termination is occasioned by Seller’s breach of any condition hereof, including breach of warranty, or by Seller’s delay Seller shall not be entitled to any costs and Buyer shall have against Seller all remedies provided by law and equity.

Assignment. Neither this Purchase Order nor any portion of this Purchase Order nor any duty or right herein nor any claim arising hereunder shall be assigned by Seller without the prior written consent of Buyer. Nor may this Purchase Order be assigned by operation of law or a merger or judicial sale or otherwise, without the prior written consent of Buyer. Any unauthorized assignment or attempted assignment by Seller shall constitute a material breach of this agreement. This Purchase Order may be assigned by Buyer.

Waiver. Failure of Buyer or Seller to insist on performance of any of the terms and conditions or requirements of this Purchase Order shall not be construed as a waiver of such terms, conditions or requirements and shall not affect the right of either party thereunder to enforce each and every term, condition or requirement hereof.

Warranty. Unless specified to the contrary in writing Seller expressly warrants to Buyer and its customers that at the time of delivery thereof the goods provided for under this Purchase Order will be merchantable and fit for their intended purposes, first class quality, free from any defects in material or workmanship, and will conform to the requirements of this Purchase Order. Notice of any such defects or non-conformance shall be given by Buyer to Seller within one (1) year of the delivery of such supplies. If required by Buyer, Seller shall promptly correct or replace the defective or non-conforming supplies. Shipping costs from Buyer’s plant to Seller’s plant and return shall be borne by Seller. These warranties shall then continue as to the corrected and replaced supplies until one (1) year after the date of their delivery. If Buyer does not require correction or replacement, Seller shall repay such portion of the contract price of said supplies as is equitable under the circumstances encountered.

Indemnification. Seller agrees to protect, defend, hold harmless and indemnify Buyer from and against any and all claims, actions, liabilities, losses, costs and expenses (including, without any limitation, attorney’s fees and expenses) arising out of any actual or alleged infringements of any patent, trade mark or copyright by any goods sold to Buyer hereunder or arising out of any actual or alleged death or injury to any person, damage to any property or any other damage or loss by whomsoever suffered, resulting or claimed to result in whole or in part from any actual or alleged defects in goods, whether latent or patent, including, but not limited to, any actual or alleged improper construction or design of said goods, actual or alleged defect or deficiency in instructions or warnings regarding the use or maintenance of said goods or the failure of said goods to comply with specifications or with any express or implied warranties of Seller, or arising out of any actual or alleged violation by such goods, or their manufacture, possession, use or sale, of any law, statute or ordinance or any governmental or administrative order, rule or regulation. These agreements and obligations of Seller shall not be affected or limited in any way by Buyer’s extension of express or implied warranties to its customers, except to the extent that any such Buyer’s warranties expressly extend beyond the scope of Seller’s warranties, express or implies, to Buyer.

Labor Dispute. (a) Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Purchase Order, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer. (b) Seller agrees to insert the substance of this clause, including this paragraph (b) in any subcontract hereunder as to which a labor dispute may delay the timely performance of this Purchase Order, except that each such subcontract shall provide that the notice and information mentioned above shall be given to the next higher tier subcontractor.

Compliance with laws. Seller, in the performance of this Purchase Order shall comply with the provisions of all applicable Federal, State and Local laws, regulations, rules and ordinances with respect to which liability may accrue to Buyer from any violation thereof by Seller.

EEOC. The Equal Opportunity Employment clause in Section 202 of Executive Order 11246 of September 24, 1965 as amended and the implementing rules and regulations thereunder, are incorporated herein by specific reference and shall have the same force and effect as if set out here in their entirety.

Entire Agreement. These Terms and Conditions of Purchase, any other special conditions contained in any schedule hereto and any specifications or other documents referenced herein or therein constitute and represent the complete and entire agreement between Buyer and Seller and supersede all previous communications, either written or oral, with respect to the subject matter of this Purchase Order.

Occupational Safety & Health Act. All items supplied under the terms of this Purchase Order shall be warranted and certified by Seller to be in compliance with requirements and standards of the Occupational Safety & Health Act of 1970. In addition, when required, Safety Data Sheets will be supplied on all applicable products. Failure of Buyer to contest a citation resulting from non- compliance with these items will not relieve Seller of liability under this warranty.

Remedies. No remedy herein provided shall be deemed exclusive of any other remedy allowed by law.

Proprietary right. Seller agrees that Buyer's designs, specifications, formulas and manufacturing information are proprietary data and shall not be utilized for purposes other than those intended in the Purchase Order.

Buyer-owned property. Unless Buyer and Seller otherwise agree in writing the following provisions shall apply to any tools, tooling, patterns, equipment, goods or other properties used in the manufacture of goods for Buyer or in the performance of this Purchase Order, that are either supplied to Seller by Buyer, or have been acquired by Seller and specifically paid for by Buyer. All such properties shall hereafter be referred to as Buyer-owned.

(a) Seller shall have the right to use Buyer-owned property without payment for usage as required in the performance of this Purchase Order or other work for Buyer, but shall not use Buyer-owned property in the performance of any other work without prior written approval of Buyer. Title to all Buyer-owned property shall at all times remain with Buyer. Title to such property which is procured or manufactured by Seller for Buyer shall be fully vested in Buyer upon payment for same by Buyer.

(b) Seller shall take necessary measures to preserve Buyer's title to Buyer-owned property, free of all encumbrances. Buyer retains the right, in addition to other rights provided by law, to enter Seller's premises and remove Buyer-owned property with or without a court order.

(c) Seller shall, on written request of Buyer, properly pack and ship Buyer-owned property to such destination as designated by Buyer.

(d) Seller shall, at its expense, perform all maintenance work, repairs and replacements necessary with respect to applicable Buyer-owned property so that such property remains suitable for the use intended.

(e) The risk of loss or damage to all Buyer-owned property shall be with Seller from the time that such property is delivered to Seller until that property is removed from seller's place of business as directed by Buyer in writing. Proof of adequate insurance coverage on Buyer-owned property shall be provided to Buyer by Seller upon written request of Buyer.

(f) Buyer shall not be liable for loss, damage, detention or delay resulting from causes beyond its control with respect to any Buyer-owned property to be delivered to Seller by Buyer.

(g) Seller shall assume and shall protect, defend, hold harmless and indemnify Buyer against any and all loss, cost, damages or liability (including attorneys' fees) for damaged property or injury to, or death of any persons arising from, incidental to the presence of, or use of Buyer-owned property, whether such damage, injury or death is caused by defects in the property, Buyer's negligence with respect to the property, negligence in the use thereof, or otherwise.

(h) Seller shall, upon receipt of written request, provide Buyer with a current listing of Buyer-owned property, in its or its subcontractor's possession, indicating complete descriptions, quantities and property conditions.

Governing Law and Assignment. The laws of the State of Georgia, unless otherwise determined or agreed upon at time of Purchase Order, without reference to choice of law principles shall govern the validity, interpretation and enforcement of the Purchase Order. The application of the United Nations Convention on the Purchase Order for International Sales of Goods shall be excluded.

Employment of disabled veterans and handicapped persons. Seller shall comply with all the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing, or disclosing information about compensation. Moreover, these regulations require that covered Seller take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

Seller agrees to comply with all the provisions set forth in 29 CFR Part 471, Appendix A to Subpart A (Executive Order 13496).

Those provisions are specifically incorporated herein by reference and shall have the same force and effect as if set out here in their entirety.

Toxic Substance Control Act. Seller warrants that none of the chemical substances constituting or contained in any of the products sold or otherwise transferred to Buyer under this Purchase Order is on the list of prohibited chemical substances compiled and published by the administrator of the Environmental Protection Agency pursuant to the Toxic Substance Control Act (PL 94409) and that Seller is otherwise in compliance with said Act.

OSHA. Seller warrants that at time of shipment the equipment will conform to the applicable occupational safety and health standards promulgated pursuant to the Federal Occupational Safety and Health Act of 1970, and which are in effect on the date that Seller enters its acknowledgement of Buyer's order. The Buyer's exclusive remedy and Seller's liability for breach of this warranty is limited to replacement of nonconforming equipment.

Miscellaneous. Seller will comply with all applicable Federal, State and local laws, and specifically represents that any goods to be delivered hereunder will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.