

Terms and Conditions

1. Applicability.

(a) This purchase order is an offer by the National Rural Electric Cooperative Association (“**NRECA**”) for the purchase of the goods specified on the face of this purchase order (the "**Goods**") from the party to whom the purchase order is addressed (the "**Supplier**") in accordance with and subject to these terms and conditions (the "**Terms**"; together with the terms and conditions on the face of the purchase order, the "**Order**"). This Order, constitutes the sole and entire agreement of the parties with respect to the Order, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Order. The Order expressly limits Supplier's acceptance to the terms of the Order. These Terms prevail over any terms or conditions contained in any other documentation and expressly exclude any of Supplier's general terms and conditions of sale or any other document issued by Supplier in connection with this Order.

(b) These Terms also apply to any repaired or replacement Goods provided by Supplier hereunder.

(c) NRECA is not obligated to any minimum purchase or future purchase obligations under this Order.

2. Acceptance. This Order is not binding on NRECA until Supplier accepts the Order in writing. NRECA may withdraw the Order at any time before it is accepted by Supplier.

3. Delivery Date. Supplier shall deliver the Goods in the quantities and on the date(s) specified in this Order (the "**Delivery Date**"). Timely delivery of the Goods is of the essence. If Supplier fails to deliver the Goods in full on or before the Delivery Date, NRECA may terminate the Order immediately by providing written notice to Supplier and Supplier shall indemnify NRECA against any losses, claims, damages, and reasonable costs and expenses directly attributable to Supplier's failure to deliver the Goods on the Delivery Date. NRECA has the right to return any Goods delivered prior to the Delivery Date at Supplier's expense and Supplier shall redeliver such Goods on the Delivery Date.

4. Quantity. If Supplier delivers more than the quantity of Goods ordered, NRECA may reject all or any excess Goods. Any such rejected Goods shall be returned to Supplier at Supplier's risk and expense. If NRECA does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis.

5. Delivery Location. All Goods shall be delivered to the address specified in this Order (the "**Delivery Location**") during NRECA's normal business hours or as otherwise instructed by NRECA.

6. Shipping Terms. All Goods shall be delivered per the method specified in this Order. Supplier shall give written notice of shipment to NRECA when the Goods are delivered to a carrier for transportation. Supplier shall provide NRECA all shipping documents, including the commercial invoice, packing list, and any other documents necessary to release the Goods to NRECA within one (1) business day after Supplier delivers the Goods to the carrier for transportation. The Order number must appear on all shipping documents, shipping labels, invoices, correspondence and any other documents pertaining to the Order.

7. Title and Risk of Loss. Title passes to NRECA upon delivery of the Goods to the Delivery Location. Supplier bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Location.

8. Packaging. All Goods shall be packed for shipment according to NRECA's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Supplier must provide NRECA prior written notice if it requires NRECA to return any packaging material. Any return of such packaging material shall be made at Supplier's expense.

9. Amendment and Modification. No change to this Order is binding upon NRECA unless it is in writing, specifically states that it amends this Order and is signed by an authorized representative of NRECA.

10. Inspection and Rejection of Nonconforming Goods. NRECA has the right, in its sole determination, to inspect the Goods on or after the Delivery Date. NRECA, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If NRECA rejects any portion of the Goods, NRECA has the right, effective upon written notice to Supplier, to: (a) rescind the Order in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If NRECA requires replacement of the Goods, Supplier shall, at its expense, promptly replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Supplier fails to timely deliver replacement Goods, NRECA may replace them with goods from a third party and charge Supplier the cost thereof and terminate this Order for cause pursuant to **Section 20**. Any inspection or other action by NRECA under this Section shall not reduce or otherwise affect Supplier's obligations under the Order, and NRECA shall have the right to conduct further inspections after Supplier has carried out its remedial actions. For avoidance of doubt, under no

circumstance, shall payment, whether in part or whole, constitute NRECA acceptance of the Goods.

11. Price. The price of the Goods is the price stated in this Order (the "**Price**"). Unless otherwise specified in this Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, fees, and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of NRECA.

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13. Payment Terms. Supplier shall issue an invoice to NRECA on or any time after the completion of delivery and only in accordance with the Terms. NRECA shall pay all properly invoiced amounts due to Supplier within forty-five (45) calendar days after NRECA's receipt of such invoice, except for any amounts disputed by NRECA in good faith. All payments hereunder must be in US dollars. In the event of a payment dispute, NRECA shall deliver a written statement to Supplier listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed will be paid, notwithstanding disputes on other items, within the period set forth in this Section 13. Supplier shall continue performing its obligations under this Order notwithstanding any such dispute.

14. Set-off. Without prejudice to any other right or remedy it may have, NRECA reserves the right to set off at any time any amount owing to it by Supplier against any amount payable by NRECA to Supplier.

15. Warranties. Supplier warrants to NRECA that for a period of twelve (12) months from the Delivery Date, all Goods will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and, (f) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by NRECA. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of NRECA's discovery of the noncompliance of the Goods with the foregoing warranties. If NRECA gives Supplier notice of noncompliance with this Section, Supplier shall, at its own cost and expense, promptly replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming Goods to Supplier and the delivery of repaired or replacement Goods to NRECA.

16. General Indemnification. Supplier shall defend, indemnify and hold harmless NRECA, its officers, directors, agents, and employees (each an “**Indemnitee**” and collectively, the “**Indemnitees**”) against any and all liabilities, losses, demands, suits, fines, injury, death, damage, claims, deficiency, action, judgment, interest, award, penalty, cost, or expenses, including reasonable attorneys’ fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, “**Losses**”) arising out of or occurring in connection with the Goods purchased from Supplier or Supplier's negligence, misconduct or breach of the Terms. Supplier shall not enter into any settlement without NRECA's or Indemnitee’s prior written consent.

17. Intellectual Property Indemnification. Supplier shall, at its expense, defend, indemnify and hold harmless NRECA and any Indemnitee against any and all Losses arising out of or in connection with any claim that NRECA's or Indemnitee's use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Supplier enter into any settlement without NRECA's or Indemnitee's prior written consent. In the event that Supplier is enjoined from delivering either preliminary or permanently, the Goods, and such injunction is not dissolved within thirty (30) calendar days, or in the event that NRECA is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any patent, copyright, trade secret, trademark, or other proprietary right in the use of the Goods, then Supplier shall, at its sole expense: (a) obtain for NRECA the right to continue to use the Goods; (b) replace or modify the Goods so that it does not infringe upon or misappropriate such proprietary right and is free to be delivered and used by NRECA; or, (c) in the event that Supplier is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, recover such Goods from NRECA, in which event in addition to the foregoing indemnification, Supplier shall reimburse to NRECA the full cost for such Goods.

18. Insurance. During the term of this Order and for a period of three (3) years thereafter, Supplier shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability, third party property damage, including products/completed operations \$1,000,000 per occurrence, \$2,000,000 aggregate, with financially sound and reputable insurers, who carry an AM Best Rating of at least “A-“ “VII” or a comparable rating. Upon NRECA's request, Supplier shall provide NRECA with a certificate of insurance from Supplier's insurer evidencing the insurance coverage specified in this Order. The certificate of insurance shall name NRECA, its subsidiaries and affiliates as additional insureds. Supplier shall provide NRECA with thirty (30) calendar days' advance written notice in the event of a cancellation or material change in Supplier's insurance policy. Except where prohibited by law, Supplier shall require its insurer to waive all rights of subrogation against NRECA's insurers and NRECA or the Indemnitees.

19. Compliance with Law. Supplier is in compliance with and shall comply with all applicable laws, regulations and ordinances. Supplier has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Order.

20. Termination. NRECA may terminate this Order, in whole or in part, at any time with or without cause for undelivered Goods on written notice to Supplier. In addition to any remedies that may be provided under these Terms, NRECA may terminate this Order with immediate effect upon written notice to the Supplier, either before or after the acceptance of the Goods, if Supplier has not performed or complied with any of these Terms, in whole or in part. If the Supplier becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the NRECA may terminate this Order upon written notice to Supplier. If NRECA terminates the Order for any reason, Supplier's sole and exclusive remedy is payment for the Goods received and accepted by NRECA prior to the termination.

21. Limitation of Liability. Nothing in this Order shall exclude or limit (a) Supplier's liability under Sections 15, 16, 17, and 23 hereof; (b) Supplier's liability for fraud; (c) Supplier's liability for damages related to bodily injury (including death) or damages to tangible personal or real property; or, (d) Supplier's liability for damages caused by its negligence or misconduct .

22. Waiver. No waiver by any party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in the Order, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

23. Confidential Information. All non-public, confidential or proprietary information of NRECA, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by NRECA to Supplier, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with this Order is confidential, solely for the use of performing this Order and may not be disclosed or copied unless authorized by NRECA in writing. Upon NRECA's request, Supplier shall promptly return all documents and other materials received from NRECA. NRECA shall be entitled to injunctive relief for any violation of this Section. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Supplier at the time of disclosure; or (c) rightfully obtained by the Supplier on a non-confidential basis from a third party.

24. Force Majeure. Neither party shall be liable to the other for any delay or failure in performing its obligations under the Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("**Force Majeure Event**"). Supplier's economic hardship or changes in market conditions are not considered Force Majeure Events. Supplier shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under this Order. If a Force Majeure Event prevents Supplier from carrying out its obligations under this Order for a continuous period of more than fifteen (15) business days, NRECA may terminate this Order immediately by giving written notice to Supplier.

25. Assignment. Supplier shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Order without the prior written consent of NRECA. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Supplier of any of its obligations hereunder. NRECA may at any time assign, transfer or subcontract any or all of its rights or obligations under the Order without Supplier's prior written consent.

26. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Order.

27. No Third-Party Beneficiaries. This Order is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

28. Governing Law. This Order, the interpretation hereof, and any disputes arising hereunder, shall be governed by the laws of the Commonwealth of Virginia, without regard to choice of laws rules. The parties hereby agree to waive and opt-out from the applicability of the Uniform Computer Information Transactions Act ("UCITA"), to the maximum extent permitted by law. In addition, for any legal suit, action, or proceeding arising out of or relating to this Order, the parties consent and submit to the jurisdiction and forum of the state and federal courts in the Commonwealth of Virginia.

29. Publicity. Supplier shall not use and shall keep its employee(s), agent(s), and subcontractor(s) from using either orally or in writing, the name of NRECA, its trademarks, trade names, whether registered or not, in connection with any sales,

advertising, marketing, or promotional activities, including without limitation, any publication, press release, advertisement or public forum, or professional or trade publication without prior written approval from NRECA. Notwithstanding the foregoing restriction does not apply to disclosures required by applicable law.

30. Cumulative Remedies. The rights and remedies under this Order are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

31. Attorneys' Fees and Costs. In any mediation, arbitration, litigation, or other proceeding informal or formal, by which one party either seeks to enforce this Order or seeks declaration of any rights or obligations under this Order, the non-prevailing party shall pay the prevailing party's costs and expenses, including but not limited to, reasonable attorneys' fees.

32. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of this Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Order, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

33. Severability. If any term or provision of this Order is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Order or invalidate or render unenforceable such term or provision in any other jurisdiction.

34. Survival. Provisions of this Order which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Order including, but not limited to, the following provisions, Sections: 14-19, 21-23, and 25-34.