

# Purchase Order Terms and Conditions

Virginia Transformer Corp./Caravels, LLC d/b/a Georgia Transformer

## TERMS AND CONDITIONS OF PURCHASE

Virginia Transformer Corp. or Caravels, LLC, or their affiliates, as identified in the Purchase Order that references these terms and conditions shall be referred to as the Buyer (or Customer) herein. The seller as identified in the Purchase Order shall be referred to as the Seller herein. These Terms and Conditions of Purchase shall govern the purchase of the goods and/or services described in the Purchase Order issued by Buyer, and the Purchase Order is expressly conditioned upon Seller's acceptance of the following Terms and Conditions. None of the Seller's terms and conditions in any proposal, quote, purchase order acknowledgment, submittal, or other Seller document submitted by Seller alter Buyer's Terms and Conditions in any respect, nor shall they apply to this transaction unless specifically agreed to by Buyer in writing, and any Seller terms or conditions contrary to the below is expressly rejected. Seller's acceptance of Buyer's Purchase Order, commencement of performance, or delivery of goods and/or services shall constitute assent to the below Terms and Conditions.

1. PRICES. All prices are firm unless otherwise agreed in writing.
2. EXTRA CHARGES. No charges of any kind, including, but not limited to charge for boxing, packing, loading, bracing or cartage will be allowed unless specifically agreed to by Buyer in writing.
3. TRANSPORTATION. Transportation charges on goods sold delivered destination must be prepaid. No insurance charges will be allowed unless authorized by Buyer. Risk of loss shall remain with Seller until delivery is made to Buyer.
- DELIVERY SCHEDULE. Unless otherwise agreed in writing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Buyer's requested delivery date. It is Seller's responsibility to comply with this requested delivery date, but not to anticipate Buyer's requirements. Goods received by Buyer in advance of requested delivery date must be returned to Seller, or stored by Buyer, at Seller's expense.
4. NOTICE IN DELAY. Time is of the essence. In the event Seller for any reason anticipates difficulty in complying with the requested delivery date, or in meeting any of the other requirements of this Order. Seller shall immediately so notify Buyer in writing, giving pertinent details, provided however, that such notice shall be informational only in character and that its receipt by Buyer shall not be construed as a waiver by Buyer (I) of any delivery schedule or requested delivery date, or (II) of any other rights or remedies provided to Buyer by law or this Order.
5. DELAYS IN DELIVERY. Provided Seller has complied with the provisions of paragraph 5. Seller will not be liable for damages for delay in delivery due to Acts of God or other force majeure causes beyond its reasonable control, and without Seller's contributing fault. If Seller, however, for any reason (including force majeure) does not comply with Buyer's requested delivery date, Buyer in addition to its remedies, provided by law at its option can either approve a revised requested delivery date or may terminate this order, without liability to Seller on account thereof. If Buyer approves a revised requested delivery date and directs that Seller ship by a method other than that indicated on the face of this Order, Seller agrees to pay any additional transportation charges incurred as a result of such direction.
- WARRANTY. Seller represents and warrants that (I) All goods furnished by it shall be (a) free from defects in design, material and workmanship; (II) fit for the purposes intended for Buyer's use; (III) new and conform to the specifications, drawings, samples and other descriptions set forth in the Purchase Order; (IV) where not specified, the highest quality and best grade of its respective kind for its intended use; and (V) Seller holds clear and marketable title to the goods. Seller further represents and warrants that all services provided shall be provided in a good and workmanlike manner.
6. REMEDIES. If any of the goods are found within a reasonable time after delivery to Buyer to be defective in material or workmanship or otherwise not in conformity with the requirements of this Order, Buyer in addition to any other rights, which it may have under warranties or otherwise, shall have the right, at its option, (I) to reject and return such goods at Seller's expense, in which event such goods shall not be replaced by Seller without prior written authorization from Buyer, or (II) upon notice to Seller, to take such actions as may be required to cure all defects and/or bring the goods into conformity with all the requirements of this Order, in which event all costs and expenses thereby incurred by Buyer shall be for Seller's account. Any and all expenses including, but not limited to shipping, manufacturing and labor expenses incurred by Buyer in the exercise of its rights under this clause, by law or by statute, shall be reimbursed by Seller. The foregoing rights to reject goods or cure nonconforming defects found within a reasonable time of delivery are non-exclusive, and Buyer shall have all other and additional rights and remedies for Seller's breaches that manifest themselves or are discovered thereafter, whether provided by this Order or by law or statute and all rights and remedies shall be cumulative and may be exercised singly or concurrently and the foregoing is in no event a limitation of rights or remedies for any and all damages sustained by Buyer.
7. BUYERS PROPERTY. Unless otherwise agreed in writing, all tools, equipment or material of every description furnished to Seller or Buyer or specifically paid for by Buyer and any replacement thereof, or any materials affixed or attached thereof, shall be and remain the personal property of Buyer. Such property (I) shall be identified as "Property of Virginia Transformer Corp" or "Property of Georgia Transformer" as applicable based on the Buyer indicated on the Purchase Order (it shall not be used except in filing Buyer's orders): (II) shall be held at Seller's risk; and (III) shall be delivered to Buyer promptly upon its written request.
8. BUYERS FURNISHED INFORMATION. All specifications, documents and prototype articles delivered by Buyer to Seller are the property of Buyer. They are delivered solely for the purpose of Seller's performance of this order, and on the express condition that neither they, nor the information Contained therein shall be disclosed to others nor used for any purpose other than in connection with this Order without the prior express written consent of the Buyer. Such specifications, documents and articles are to be returned to Buyer promptly upon its written request and may be made at any time during or after completion of Seller's performance. The obligations under this clause shall survive the cancellation, termination or completion of this Order.
9. CHANGES. Buyer shall have the right to make changes in this order, but no additional changes will be allowed unless authorized by written change order by Buyer. If such changes affect delivery or the amount to be paid by Buyer, Seller shall notify buyer immediately and negotiate an adjustment. However, upon written notice to Seller from Buyer, Seller shall promptly perform to conformity with the provisions of this Order as so changed. There shall not be any adjustments to price as a result of tariff surcharges or other surcharges, or levies made on the goods or Seller by any governmental authority, agency or other body, without the express mutually executed agreement of Buyer and Seller.
10. NON-ASSIGNMENT. Assignments of this Order or any interest herein without the prior written consent of Buyer, shall be void.
11. SUB-CONTRACTING. Seller shall not subcontract nor delegate performance of all or any substantial part of the work called for under this Order without the prior written consent of Buyer.
12. SET-OFF. Buyer shall be entitled at all times to set-off any amount owing at any time from Seller to Buyer or any of its affiliated companies against any amount payable at any time by Buyer or any of its affiliated companies to Seller.
13. COMPLIANCE WITH LAWS. Seller agrees to comply with the provisions of all present and future federal, state or local law or ordinance and all orders, rules and regulations issued thereunder applicable to this Order and its performance; any provisions, representations or agreements, including the clause dealing with Equal Opportunity (Executive Order 11246) as amended by (Executive Order 11375) set forth in 41 CFR Chapter 60 employment of veterans (Executive Order 11758) set forth in 41 CFR Chapter 60-741, and utilization of minority business enterprises (Executive Order 11625) set forth in 41 CFR Chapter 1-1-1310, required thereby to be included in the contract resulting from acceptance of this order are incorporated herein by reference.
14. DISCLOSURE OR KNOWLEDGE OR INFORMATION. Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with a request for quotation or the purchase of goods or the services covered by this Order, shall not, unless otherwise specifically agreed upon in writing by Buyer, be deemed to be confidential or proprietary information, and shall be acquired free from any restrictions other than a claim for patent infringement as part of the consideration for this order.
15. FOR WORK ON BUYER'S OR ITS CUSTOMER'S PREMISES. If Seller's work under this Order involves operations by Seller on the premises of Buyer or one of its customers, Seller shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work. Except to the extent that any such injury is due solely and directly to Buyer's or its customer's negligence, as the case may be, Seller shall indemnify Buyer against all loss, damage and liability which may result in any way from any act or omission of the Seller, its agents, employees or subcontractors. Seller shall maintain such Public Liability, Property Damage and Employees Liability and Compensation Insurance as will protect Buyer from said risks and from any claims under any applicable Workmen's Compensation and Occupational Disease Act. For and in consideration of this Order, Seller hereby submits each of its employees, agents, representatives, vehicles, and equipment which enter or leave Buyer's premises to customary plant security procedures in effect at said premises.
16. CANCELLATION. If Seller ceases to conduct its operations in the normal course of business including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or an assignment for the benefit of creditors is made by Seller, Buyer may cancel this Order without any liability to Seller..
17. NON-WAIVER. The failure of Buyer to enforce at any time or for any period of time any of the Provisions hereof shall not be construed to be a waiver of such provisions nor of the right of Buyer thereafter to enforce each and every such provision.
18. TERMINATION FOR CONVENIENCE. Buyer may terminate all or any part of this Order at any time upon written notice to Seller. Thereafter Buyer will pay seller's cost properly allocable to the termination on the part of the work performed prior to termination.
19. INTELLECTUAL PROPERTY. Seller represents and warrants that it has the authority to grant, and hereby grants to Buyer a permanent, assignable, nonexclusive, royalty free, global license to use, maintain and modify goods purchased. The Seller shall, at Buyer's option, indemnify, defend, and hold Buyer or its customer harmless in any claim, suit or proceeding brought against the Buyer or its customer so far as based on a claim that any goods or any part thereof, furnished under this order constitutes an infringement of any United States or foreign patent, copyright, trademark, know how, or trade secret. Seller shall pay all expenses, damages and costs related to any such claim, suit or proceeding. In case the use of said goods or parts is enjoined in such suit or proceeding, the Seller shall at its own expense procure for the Buyer and its customers the right to continue using said goods or parts.
20. DRAWINGS. Unless otherwise specifically agreed in writing by Buyer any check or approval of drawings by Buyer will be for Seller's convenience and will not relieve Seller of its responsibility to meet its requirements of this order.
21. NON-DISCRIMINATION IN EMPLOYMENT. Seller will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.
22. PLANT ACCESS. Seller will allow representatives of Buyer and Buyer's customers access to the facilities involved in performing this Order for purposes of reviewing the status and progress of production and witnessing, tests and inspections. Such access will not relieve Seller of any of its regulations.

23. **AGREEMENT AND MODIFICATION.** This Order together with all things expressly incorporated herein by reference shall constitute the entire agreement between the parties, and no obligations not expressly set forth are binding unless in writing and signed by a duly authorized representative of Buyer and no modifications or amendments shall be made and be effective unless set forth in a writing executed by Buyer and Seller.
24. **HAZARDOUS MATERIALS.** Any materials required by this Order that are deemed hazardous will be packaged, marked and shipped by the Seller to comply with all present and future Federal, State and Local Regulations and will further comply with any special Buyer requirements as might be noted on the face of the Purchase Order or otherwise in writing by Buyer.
25. **GOVERNING LAW AND JURISDICTION.** This agreement shall have been deemed to have been made in Virginia and this agreement shall be governed, interpreted and construed by and in accordance with the laws of the Commonwealth of Virginia and the Seller and Buyer agree that any action with respect to the Purchase Order or this agreement shall be brought in a court of competent subject matter jurisdiction located in the Commonwealth of Virginia and the parties submit themselves to the exclusive jurisdiction and venue of such court for the purpose of such action.
26. **EQUAL EMPLOYMENT OPPORTUNITY.** The following clause is applicable unless this Purchase Order is exempt under the rules and requisitions of the President's Committee on Equal Employment Opportunity issued pursuant to Executive order 11246 of September 24, 1965.
27. **CERTIFICATIONS.** Seller in accepting this order represents that the goods to be furnished hereunder were or will be produced in compliance with all applicable requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act of 1938, as amended, and all valid and applicable regulations and orders of the Administrator of the Wage and Hour Division issued under Section 12 thereof. Seller shall insert a certificate on all invoices submitted in connection with this order stating that the goods were produced in accordance with the foregoing representation. Seller certifies that with respect to orders which exceeds \$10,000 and which are not otherwise exempt from the Equal Opportunity Clause (Executive Order 11246 as amended by Executive Order 11375) he is in compliance with the requirements for non-segregation of facilities set forth in 41 CFR Chapter 60-1.8 and that he will furnish the certification required thereof.
- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Such action shall include, but not limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection from training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this no discriminating article.
  - b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
  - c. The Contractor will send to each union or representative of workers with which he has a collective bargain agreement or other contract or understanding, a notice to be provided by the agency Contracting Officer advising the labor union or workers representative of the Subcontractors commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
  - e. The Contractor will furnish all information and reports required by Executive Order 11245 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor pursuant thereto, and will permit access to his books, records and accounts by the Contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and order.
  - f. In the event of the Contractor's non-compliance with The Non-Discrimination clauses herein with any of such rules, regulations or orders, the Purchase Order may be cancelled, terminated or suspended in whole or in part and the Subcontractor may be declared ineligible for future government contract or subcontract, in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sections maybe imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or order of the Secretary of Labor, or as otherwise provided by law.
  - g. The contractor will include the provisions of Paragraphs A through G in every subcontract or purchase order unless exempt by rules and regulations to orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Contracting Agency may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided however, that in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect interest of the United States. (In the above clause "Contractor" means the Seller under this Purchase Order)
  - h. Employment of the Handicapped Section 60-741.22 of The Secretary of Labor Rules requiring and Affirmative Action Program for the Handicapped Persons (Title 41, Chapter 60-741 CFR) is hereby incorporated by reference.
  - i. Employment of Veterans- Section 60-250 of Title 41 CFR is hereby incorporated by reference.