

General Terms and Conditions of Purchase

1. **IN GENERAL:** These General Terms and Conditions of Purchase (“Terms”) are and shall be interpreted and applied as a part of the purchase order (“PO”) for the purchase of materials and/or services (the “Goods/Services”) delivered by the purchasing company named in the PO, which is **TOTALENERGIES DISTRIBUTED GENERATION USA, LLC**, a Delaware limited liability company, or one of its subsidiaries, as specified in the PO (such entity specified in the PO, “Buyer”), and the seller or supplier named in the PO (“Seller”).
2. **ACCEPTANCE:** Acceptance of the PO by Seller is expressly limited to the terms and conditions contained in the PO and these Terms. Any term or condition stated by Seller in any prior proposal, on Seller’s acknowledgement form, or otherwise, acknowledging or accepting the PO shall be deemed to be a material alteration of the PO and is hereby objected to by Buyer. Any such term or condition shall be totally inapplicable to the PO unless specifically agreed to in writing and signed by Buyer or an authorized representative of Buyer. Acceptance of the Goods/Services covered by the PO will not constitute acceptance by Buyer of Seller’s terms and conditions. Any of the following acts by Seller shall constitute acceptance of the PO and these Terms: (a) signing and returning a copy of the PO, (b) delivery of any of the Goods/Services, (c) informing Buyer in any manner of commencement of performance, or (d) returning Seller’s own form of acknowledgement.
3. **PRICE and DELIVERY:** Seller shall furnish the Goods/Services covered by the PO in accordance with the prices and delivery schedule stated on the PO. All prices shall include applicable taxes, except sales taxes which are to be separately shown where applicable. Seller warrants that the prices charged for the Goods/Services will be as low as the lowest prices charged by Seller to any customers purchasing similar Goods/Services in the same or smaller quantities and under like circumstances. Buyer may return, or store at Seller’s expense, any Goods/Services delivered more than five (5) days in advance of the delivery date specified for such Goods/Services. Time is of the essence in connection with the PO.
4. **PACKAGING and SHIPPING:** No charge shall be made by Seller for packaging or storage. All Goods/Services shall be packaged, marked, and otherwise prepared in

accordance with good commercial practices to obtain lowest shipping rates and in accordance with all applicable federal, state and local packaging and transportation laws and regulations. Seller shall mark on containers handling and loading instructions, shipping information, order number, Buyer's part number and account, shipment date and names and address of Seller and Buyer. An itemized packing list shall accompany each shipment.

5. **SHIPPING; TITLE AND RISK OF LOSS:** Unless otherwise specified to the contrary in the Purchase Order, shipping shall be IncoTerms DDP Buyer's location designated in the Purchase Order. Seller shall bear all risk of loss or damage to the Goods/Services, and title shall not shift to Buyer, until delivery of Goods/Services to Buyer's location.
6. **INVOICING:** After each shipment made or service provided under the PO, Seller shall send to Buyer a separate invoice, including item numbers, in duplicate, accompanied by a bill of lading or express receipt. Payment of an invoice by Buyer shall not constitute acceptance of the Goods/Services by Buyer and shall be subject to appropriate adjustment for failure of Seller to meet the requirements of the PO. Buyer may set off any amount owed by Seller or any of its affiliated companies to Buyer against any amount owed by Buyer to Seller under the PO.
7. **INSPECTION:**
 - a) All Goods/Services may be inspected and tested by Buyer, its customers, higher tier contractors, and the government (as applicable) at all reasonable times and places. If such inspection or testing is made on Seller's premises, Seller shall provide, without additional charge, all reasonable facilities and assistance for such inspections and tests. In Seller's internal inspection and testing of the Goods/Services, Seller shall use an inspection system accepted by Buyer in writing. All inspection records relating to the Goods/Services shall be available to Buyer during the performance of the PO, and retained for a minimum period of seven (7) years or such longer period as may be specified by Buyer in its acceptance of the Goods/Services. Seller must have Buyer's express written approval before disposal/disposition of any such records.
 - b) Final inspection and acceptance by Buyer shall be at Buyer's plant or shipping destination unless otherwise specified in the PO. Such inspection shall be in accordance with Buyer's customary established inspection procedures. If rejection of a shipment would result from Buyer's normal inspection level under such procedures, Buyer may, at its option, conduct an above-normal level of inspection (up to 100% inspection) and charge Seller the reasonable costs thereof. No inspection (including source inspection), tests, approval (including design approval), or acceptance of the Goods/Services shall relieve Seller from responsibility for any defects in the Goods/Services or other failure to meet the requirements of the PO or for latent defects, fraud, such gross mistakes as would amount to fraud and/or Seller's warranty obligations. If any of the Goods/Services are defective or otherwise not in conformity with the requirements of the PO, Buyer may, by written notice to Seller (1) rescind the PO as to such Goods/Services; (2) accept such Goods/Services at an equitable reduction in price, or (3) reject such Goods/Services and require the delivery of replacements. Deliveries of replacements shall be accompanied

by a written notice specifying such Goods/Services are replacements. If Seller fails to deliver required replacements promptly, Buyer may (1) replace such Goods/Services and charge Seller the cost occasioned Buyer thereby, or (2) terminate the PO for cause as provided in Section 21(b) of these Terms. Rights granted to Buyer under this Section are in addition to any other rights or remedies provided elsewhere in the PO or under applicable law.

8. **WARRANTIES:** In addition to all other express or implied warranties, for a period of five (5) years or such other period that the parties may have expressly agreed to in writing, the Goods/Services will be (a) free from defects in workmanship and materials; (b) free from defects in design except to the extent such Goods/Services comply with the detailed designs provided by Buyer, (c) suitable for intended use and for the purposes, if any, which are stated in the PO, (d) fully compliant with the Goods/Services specifications, and (e) in conformity with all the other requirements of the PO. All warranties from Seller may be passed on and assigned to Buyer's customers. The warranty period shall commence upon shipment of the Goods/Services by Seller and shall be restarted upon the date of commissioning of such Goods/Services or six (6) months after delivery to Buyer, whichever occurs first.
9. **BUYER-SUPPLIED EQUIPMENT:** If Buyer furnishes or pays for any equipment such as special dies, molds, jigs, tools, test equipment, masks, etc. ("Buyer-Supplied Equipment") for use by Seller in connection with the PO, title thereto shall remain or vest in Buyer, and Seller shall identify, maintain and preserve the Buyer-Supplied Equipment and shall dispose of it in accordance with Buyer's directions. Unless otherwise authorized in writing by Buyer, Seller shall use the Buyer-Supplied Equipment solely in the performance of the PO (and any other POs for Buyer). Seller shall be responsible for any loss, damage, or destruction to the Buyer-Supplied Equipment. Seller shall not include any insurance or storage cost for the Buyer-Supplied Equipment in the prices charged under the PO. Buyer also reserves the right to request and receive a list of the Buyer-Supplied Equipment in Seller's possession and to audit said list against actual items at Seller's facility. Buyer reserves the right, at its sole discretion, to remove any Buyer-Supplied Equipment upon completion, termination or cancellation of the PO or if Buyer deems the performance of the PO is in jeopardy.
10. **MATERIAL:** If Buyer furnishes any material (such as extrusions, fasteners, bearings, bushings, etc.) for fabrication under the PO, Seller agrees (a) not to substitute any other material in such fabrication without Buyer's express written consent, (b) title to such materials shall not be affected by incorporation in or attachment to any other property, and (c) all such material (except that which becomes normal industrial waste or is replaced at Seller's expense) will be returned in the form of products or unused material to Buyer. In addition Seller shall inspect any material furnished by Buyer and shall have the right to reject any nonconforming material; but in the event of losses or attrition thereafter, Seller shall be responsible for replacing such material at Seller's expense. Inaccuracies, out-of-tolerance conditions or inadequacies in quantity of materials accepted by Seller shall not excuse performance in strict accordance with the

applicable specifications and/or drawings.

11. **CONFIDENTIAL OR PROPRIETARY INFORMATION and PROPERTY:** Seller shall not, and shall cause its representatives not to, disclose any information received from Buyer or its representatives in connection with the PO which Seller should reasonably understand to be confidential to any third parties or to Seller's representatives, except to those representatives of Seller who reasonably require such information to fulfill the PO and Seller's routine business processes related thereto. Seller shall not, and shall cause its representatives not to, use any information received from Buyer or its representatives which Seller should reasonably understand to be confidential for any reason other than in connection with the fulfillment of the PO. Upon Buyer's request, and in any event upon the completion, termination or cancellation of the PO, Seller shall, at Buyer's sole decision, return all such information and property to Buyer or make such other disposition thereof as is directed by Buyer. Seller shall not sell or dispose of as scrap or otherwise, any completed or partially completed or defective proprietary property before receiving written authorization from Buyer and before rendering such property unrecoverable and unsuitable for use. In all lower-tier subcontracts and POs issued by Seller and involving subcontractor receipt of such information or property, Seller shall provide Buyer the same rights and protections as contained in this Section.
12. **SUBCONTRACTS:** Seller shall obtain Buyer's express prior written consent before issuing any next-tier subcontract under the PO.
13. **COMPLIANCE WITH LAWS:** Seller shall comply with all federal, state and local laws, ordinances, rules and regulations in the manufacture, sale and performance of the Goods/Services, including but not limited to any export/import and sanctions laws and regulations, the regulations of the Office of Foreign Assets Control ("OFAC"), the U.S. Occupational Safety and Health Act (OSHA), the U.S. Truth in Negotiation Act, the U.S. Resources Conservation and Recovery Act, the U.S. Foreign Corrupt Practices Act, and all applicable requirements of the U.S. Fair Labor Standards Act, and any similar laws in other countries (collectively, the "Laws"). Seller will indemnify, protect, defend and hold harmless Buyer from any losses, damages, and/or costs arising out of or from, or caused in any way by, any actual or alleged violation of any of the Laws by Seller, including, without limitation, Seller's failure to have (1) any chemical substance sold or delivered under the PO included in the list of approved chemical substance published by the U.S. Environmental Protection Agency pursuant to the Toxic Substances Control Act, or similar laws in other countries, or (2) provide a complete Material Safety Data Sheet (OSHA Form 2.0) or equivalent, or similar forms under the laws of other countries, for any chemical substances sold hereunder as required by any of the Laws.
14. **LIEN WAIVERS:** Seller shall furnish, upon Buyer's request, waivers by Seller and all other persons entitled to assert any lien rights in connection with the performance of the PO.
15. **PATENTS AND COPYRIGHTS:** Seller shall indemnify, protect and hold harmless Buyer and any customer of Buyer from and against any suit or claim that may be

instituted against Buyer or any customer of Buyer for alleged infringement of patents or copyrights, or other intellectual property, relating to the maintenance, manufacture, import, sale or use of the Goods/Services, and for all costs, losses, damages, expenses, including, without limitation, reasonable attorneys' fees incurred in connection therewith, excluding, however, any such infringement to the extent it results from Seller's compliance with detailed designs provided by Buyer provided such allegation is only arising out of the use of designs provided by Buyer. Buyer shall have the right, at no additional charge, to use and/or reproduce Seller's applicable literature, such as operating and maintenance manuals, technical publications, prints, drawings, training manuals, and other similar supporting documentation and sales literature. Seller shall advise Buyer of any updated information relative to the foregoing literature and documentation with timely notifications in writing.

16. **LIABILITY FOR INJURY:** Seller shall indemnify, protect and hold harmless Buyer from any and all costs, losses and liabilities, including, without limitation, reasonable attorneys' fees, for all personal injury and/or death and property damage caused by the Goods/Services or the performance by Seller of the PO (whether performed on the premises of Seller or Buyer or elsewhere) and shall defend at Seller's sole cost and expense any action brought against Buyer as a result of any such personal injury and/or death or property damage. Seller shall carry and maintain insurance coverage satisfactory to Buyer to cover the indemnity obligation and, upon Buyer's request, shall furnish Buyer with evidence of such insurance in a form satisfactory to Buyer.
17. **ASSIGNMENT:** Seller may not assign the PO or any rights and/or obligations thereunder without the express prior written consent of Buyer. Any purported assignment by Seller without such consent of Buyer shall be null and void and shall not be binding on Buyer.
18. **NOTICE OF LABOR DISPUTES:** Whenever an actual or potential labor dispute delays, or threatens to delay, the timely performance of the PO, Seller shall immediately notify Buyer in writing of all relevant information with respect to such dispute.
19. **PUBLICITY:** Seller shall not make or authorize any news release, advertisement, or other disclosure which shall deny or confirm the existence of the PO without the prior written consent of Buyer, except as may be required to perform the PO.
20. **CHANGES:** Buyer may, at any time, by change order, suspend performance of the PO, in whole or in part, make changes in the quantities, drawings, designs, specifications, method of shipment or packing or time or place of delivery of the Goods/Services, reschedule the Goods/Services or require additional or diminished Goods/Services (each, a "Change Order"). If any such Change Order causes an increase or decrease in the cost of, or the time required for performance of the PO, an equitable adjustment shall be made in the contract price payable under the PO. At Buyer's option, any right to such an equitable adjustment shall be deemed to be absolutely and unconditionally waived by Seller, unless asserted by Seller in a written notice to Buyer (including the amount of the claim) delivered to Buyer within thirty (30) days from the date of receipt by Seller of the

applicable Change Order. If the cost of property made obsolete or excess as a result of a Change Order is paid by Buyer, Buyer may prescribe the manner of disposition of such property.

21. TERMINATION:

a) **Without cause:** Buyer may terminate for its convenience all or any part of the PO at any time by written notice to Seller. The following sentence shall apply only if the PO bears a U.S. Government contract number: upon such termination, settlement shall be made in accordance with the principles contained in Federal Acquisition Regulations (FAR) 52.249-2 or -4 as in effect as of the date of the PO, except that Seller must submit a written termination claim to Buyer within ninety (90) days after the effective date of termination, or such claim shall be absolutely and unconditionally waived by Seller.

b) **With cause:** If Seller fails to make delivery of the Goods/Services in accordance with the provisions of the PO, or fails to perform any other provision of the PO, or so fails to make progress as to endanger performance of the PO in accordance with its terms, and does not cure such failure within ten (10) days after written notice from Buyer, Buyer may (in addition to any other right or remedy provided by the PO or by law) terminate all or any part of the PO by written notice to Seller without liability. In such a case, Buyer may purchase substitute goods elsewhere, and Seller shall be liable to Buyer for any excess cost incurred by Buyer as a result thereof. Seller shall continue performance of the PO to the extent not terminated pursuant to this Section 21(b). If the PO is terminated as provided in this Section 21(b), Buyer, in addition to any other rights provided herein or by law, may require Seller to transfer title and deliver to Buyer (1) any completed Goods/Services, and (2) such partially completed Goods/Services and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights as Seller has specifically produced or specifically acquired for the performance of the PO.

22. WAIVER AND SEVERABILITY: The failure of Buyer to insist upon the performance of any provision of the PO or these Terms, or to exercise any right or privilege granted to Buyer under the PO or these Terms or law, shall not be construed as waiving such provision or any other provision of the PO or these Terms or any right under law, and the same shall continue in full force and effect. If any provision of the PO or these Terms is found to be illegal or otherwise unenforceable by any court or other judicial or administrative body, the other provisions of the PO and these Terms shall not be affected thereby, and shall remain in full force and effect.

23. APPLICABLE LAW: The validity, performance, and construction of the PO and these Terms shall be governed by the laws of the State of California (if in the United States of America) or the laws of the Country (if outside of the United States of America) shown on Buyer's address on the PO. If the parties have entered into a Master Agreement, the Master Agreement's choice of law provision shall control.

24. SPECIAL U.S. GOVERNMENT PROVISIONS: The provisions set forth in this Section shall apply only if the PO bears a U.S. Government contract number. Such PO will be construed and interpreted according to the Federal Law of Government Contracts

as enunciated and applied by Federal judicial bodies and Boards of Contract Appeals, and other judicial and quasi-judicial agencies of the Federal Government. To the extent that the Federal Law of Government Contracts is not determinative, recourse shall be had first to the federal law of sales applying the Uniform Commercial Code, and then to the laws of the State shown on Buyer's address on the PO.

- a) **Audit:** Seller agrees its books and records and its plants, or such part thereof as may be engaged in the performance of the PO, shall at all reasonable times be subject to inspection and audit by any person designated by the head of any executive department of the U.S. Government.
- b) **Subcontracts:** Seller agrees that no subcontract placed under the PO shall provide for payment on a cost plus percentage of cost basis.
- c) **Quality Control:** Except as otherwise provided in the PO, Seller's system of Quality Control during the performance of the PO shall be in accordance with the specifications incorporated herein by reference or other Quality Control Specifications as are required by Buyer's prime contract or higher tier order.
- d) **FAR Regulations:** The PO shall be subject to all of the applicable provisions of the Federal Acquisition Regulations (FAR), Department of Defense FAR Supplements, and clauses in the Defense Acquisition Regulations, as in effect from time to time, each of which shall be, and hereby is, incorporated in these Terms by reference and made a part hereof to the extent the same are required by statute, regulation or Buyer's prime contract. In interpreting any of the foregoing, where appropriate, the term "Contractor" shall mean "Seller", the term Contract shall mean the PO and the term "Contracting Officer" shall mean the Contracting Officer for the U.S. Government prime contract or "Buyer", as applicable or appropriate. Any reference to a "Default" clause in the above FAR clauses shall mean the "Termination With Cause" clause hereof.
- e) **Government Property:** Seller shall maintain and administer, in accordance with sound industrial practices, a program for the maintenance, repair, protection and preservation of Government property. Seller shall comply with the provisions of FAR Part 45 "Government Property" to the extent applicable, as amended from time to time, which Part is hereby incorporated by reference and made a part of these Terms. Seller assumes risk of and shall be responsible for any loss or damage to Government property, except for reasonable wear and tear and except to the extent that such property is incorporated in the Goods/Services delivered under the PO. Upon completion of the PO or at such earlier times as Buyer may request, Seller shall submit, in acceptable form, inventory schedules covering all items of Government property pertaining to the PO. This clause shall not limit the use by Seller of the property to which the Government has title in the production of end items on direct Government orders; however, nothing herein will be deemed to contravene the rights of the Government under FAR Part 45.

25. **DISPUTES/JURISDICTION AND VENUE:** Buyer and Seller shall use their best reasonable efforts to resolve any and all disputes, controversies, claims, or differences between them arising out of or relating in any way to the PO, these Terms or the performance of the PO, including, but not limited to, any questions regarding the existence, validity or termination of the PO (a "Dispute"), through negotiation. Only upon

failure by Buyer and Seller to resolve a Dispute through such negotiation may either Party institute legal action. If the country shown on Buyer's address on the PO is the United States of America, any Dispute arising under the PO which is not disposed of by agreement of the parties shall be submitted to the Santa Clara County Superior Court, State of California, and each party submits to the jurisdiction of that court for such purpose. Any removal to Federal Court shall be to the Northern District, San Jose, California. If the country shown on Buyer's address on the PO is different from the United States of America, any Dispute arising under the PO which is not disposed of by agreement of the parties shall be submitted to the competent courts of the city where Buyer has established its principal office, and each party submits to the jurisdiction of such courts for such purpose. Pending settlement of final decision of any such Dispute, Seller shall proceed diligently with the performance of the PO in accordance with Buyer's directions.

26. **COMPLETE AGREEMENT; MASTER AGREEMENT:** If Seller or its affiliates on the one hand, and TotalEnergies Distributed Generation USA, LLC or its affiliates on the other hand, has executed a master supply/service agreement (the "Master Agreement") relating to the Goods/Services, then the terms of the Master Agreement shall govern the purchase/sale of the Goods/Services. The PO, and any supplemental sheets and riders annexed to the PO and these Terms shall be in addition to the Master Agreement. The Master Agreement shall control if there are any conflicts between (a) the Master Agreement and (b) the PO, and any supplemental sheets and riders annexed to the PO and these Terms. The Master Agreement, together with the PO, and any supplemental sheets and riders annexed to the PO and these Terms, constitute the complete and entire agreement between Buyer and Seller as to the subject matter of the PO and replaces and supersedes any prior or contemporaneous communications, representations, or agreements, whether oral or written, with respect to such PO. If there is a conflict between these Terms and the PO, the terms under the PO shall prevail.
27. **ANTI-KICKBACK:** Seller warrants that it is, and during the term of the PO will remain, in full compliance with the provisions of the Anti-Kickback Act of 1986, 41 U.S.C. 51-58 and any other applicable anticorruption laws and shall indemnify, protect, defend and hold harmless Buyer from any liabilities or monetary loss Buyer may suffer as a result of failure of such compliance by Seller. Should the PO and these Terms be governed by the laws of a country other than the United States of America, Seller shall also comply with similar applicable laws and shall indemnify, protect, defend and hold harmless Buyer from any liabilities or monetary loss Buyer may suffer as a result of failure of such compliance by Seller.
28. **ON-SITE WORK:** Prior to Seller's performance of any work at Buyer's facility, a completed Contractor / Consulting / Services Agreement shall be required and shall be incorporated herein by reference.
29. **INDEMNIFICATION:** When Seller is performing work at Buyer's facility, Seller shall indemnify, defend, protect and hold harmless Buyer and any other owner of such facility and their officers, directors, shareholders, members, managers, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of

whatsoever kind or nature including, without limitation, reasonable attorneys' fees, arising out of, in connection with, or incident to, the performance of such work, except that solely caused by the negligence of Buyer or such other owner. In the event of litigation between Buyer and Seller or any indemnified party to enforce rights under this Section, reasonable attorneys' fees shall be allowed to the prevailing party.

30. **AUTHORIZED AGENT:** All of Buyer's contractual directions (including, but not limited to, pricing, delivery, and configuration changes) in connection with the PO must be authorized in writing by authorized purchasing agents of Buyer.
31. **HAZARDOUS MATERIAL:** Where applicable all materials required by the PO shall meet applicable OSHA requirements as specified in 29 CFR 1910.1200 including providing complete and accurate material safety data sheets (MSDS). Additionally, MSDS shall identify chemicals by their chemical abstract system (CAS) numbers. Similar legal and reporting requirements in other countries shall apply to Goods/Services provided outside the United States.
32. **EQUAL OPPORTUNITY (EO):** **This contractor and subcontractor shall abide by the requirements of 41 CFR 60–300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.