

PURCHASE ORDER TERMS AND CONDITIONS

Essex Furukawa Magnet Wire Asia Pacific

- Acceptance:** Acceptance of this order by any method, including by signing and returning an acknowledgement copy hereof by facsimile or other means of electronic transmission, or by making any shipment of goods or performing any services ordered hereby shall be an acceptance of the terms and conditions appearing on the face and reverse side hereof ("Terms") as the only terms and conditions applying to the purchase and sale of the goods and services set forth on the face of this order, unless other terms and conditions are agreed to in writing signed by an authorized representative of Buyer and the Vendor. Any additional or contrary terms and conditions on any quote, order acknowledgement or other document of Vendor are hereby deemed to be material alterations to these terms and conditions and notice of objection to and rejection of them are hereby given.
- Risk of Loss:** The title and risk of loss of any goods, materials or products ("Products") shall not pass to Buyer until Buyer receives the Products at the designation specified on the order, freight arranged and paid by Vendor. Risk of loss to rejected Products shall pass to Vendor at the time of rejection.
- Delivery:** Transportation and delivery of the Products and any work or services ("Services") must be in strict accordance with the shipping instructions and delivery dates set forth on the reverse side hereof or as otherwise furnished by Buyer. Time is of the Essence. Any excessive freight costs incurred by reason of Vendor's failure to follow such shipping instructions will be charged to Vendor. Vendor agrees to do all things necessary, including working overtime or extra shifts, or shipping by premium means, all at Vendor's expense, to deliver the Products and Services on time. If Vendor has reason to believe that delivery of any of the Services or a Product will be delayed, Vendor shall immediately notify Buyer of the cause and duration of the anticipated delay, and Buyer at its sole option may cancel this order without any liability to Vendor. Unless otherwise agreed in writing, Vendor shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Buyer's delivery schedule. Vendor shall be liable for all damages, including incidental and consequential, arising out of its failure to supply or deliver the Product or Services in accordance with these Terms.
- Force Majeure:** Any delay or failure of either Party to perform its obligations shall be excused if it is caused by an extraordinary event or occurrence beyond the control of the nonperforming party and without the nonperforming party's fault or negligence, such as acts of God, nature, governments or their agencies, terrorism, war or sabotage, compliance in good faith with any applicable foreign or domestic governmental regulation or order (whether or not it proves to be invalid), fires, riots, inability to supply or obtain products, materials, raw materials, supplies, fuel or utilities from normal sources of supply, labor disputes, work stoppages, lockouts, delays in transportation, earthquakes, floods, storms or other severe weather conditions, power shortages or power failures, pandemics, epidemics, quarantines or other public health emergencies of similar nature (each, a "Force Majeure Event"). Written notice of such delay, including the anticipated duration of the delay, must be given by the nonperforming party within three (3) days of the event. During the period of any delay or failure to perform by Vendor, Buyer, at its option, may purchase Products or Services from other sources and reduce its schedules to Vendor by such quantities, without liability to Buyer, or cause Vendor to provide the Products or Services from other sources in quantities and at times requested by Buyer and at the price set forth in the Terms. If requested by Buyer, Vendor shall, within five (5) days of such request, provide adequate assurance that the delay will not exceed such period of time as Buyer deems appropriate. If the delay lasts more than the time period specified by Buyer, or Vendor does not provide adequate assurance that the delay will cease within such time period, Buyer may, among its other remedies, immediately cancel this order or any order in whole or in part without liability. If Vendor is unable to supply the Products due to Force Majeure Event, Vendor will allocate its available supply of Product to Buyer on a basis that is no less favorable than any other party, including Vendor and its affiliates.
- Changes:** Vendor will notify Buyer of any product modifications or improvements that change the composition or makeup of the Products, including without limitation, modifications or changes to physical or electrical properties, manufacturing processes, performance, application, or cost. Prior to Vendor providing any modified Products to Buyer, Vendor must (i) obtain approval in writing from Buyer's Director of Procurement; and (ii) provide Buyer any assistance, at Vendor's cost, necessary to inspect and test the modified Product.
- Inspection and Returns:** Buyer shall have the right to inspect and test materials and workmanship of all Products and Services at all times and places, including when practicable, during manufacture; and if any such inspection or test is made on the premises of Vendor, Vendor shall furnish without additional charge all reasonable facilities and assistance for a safe and convenient inspection or test. Buyer retains the right to return any Product that in Buyer's sole and absolute judgment does not process properly, does not meet the required fit, form, or function when used in Buyer's product, does not meet the specifications or is not consistent with the Product provided previously by Vendor. Such request for returns shall be made to the Vendor's identified or authorized sales representative by Buyer's purchasing department (Atlanta or Buyer's plant).
- Warranty:** Vendor warrants that the Products furnished under this order shall be free from defects in materials, workmanship, and design, fit for particular purpose, and shall conform to all applicable specifications, descriptions, samples, and drawings provided to or by Buyer. These warranties extend to the future performance of the Products and shall continue for the longer of (a) the warranty period provided to Buyer's customers for the Products; or of products or material which incorporate the Products; (b) one year after the material is accepted by Buyer or (c) such greater period as may be specified elsewhere in this order. Vendor shall perform the Services in a good, workmanlike, efficient and trustworthy manner consistent with high professional standards and in accordance with the terms and conditions of these Terms. Vendor shall immediately correct all errors, defects and omissions in the Services without any additional cost to Buyer. All warranties shall survive inspection, acceptance and payment. In addition to any other remedies, Products not meeting the warranties will be, at Buyer's option, returned for or subject to refund, repaired, or replaced by Vendor at no cost to Buyer or its customers and with transportation costs and risk of loss and damage in transit borne by Vendor. Repaired and replacement Products shall be warranted as set forth in this clause.
- Indemnity:** Upon Buyer's written notice to Vendor, Vendor agrees to indemnify, defend and hold Buyer harmless from and against all losses, claims, damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and court costs) arising out of or resulting from (i) any claim or action brought for harm, death or economic loss against Vendor or Buyer caused by the Products or Services sold hereunder, irrespective of the theory upon which the claim or action is brought, including without limitation, claims or actions designated as strict liability, breach of express or implied warranty, negligence or any other substantive legal theory; and (ii) any claim against Buyer alleging that the Products or Services, or any part thereof, infringe any patent, copyright, trademark, trade secret, mask work, or other intellectual property interest in any country. If an injunction against Buyer's use, sale, lease, license, distribution, of the Products, or any part thereof results from an infringement claim (or, if Buyer reasonably believes such an injunction is likely), Vendor shall, at its expense (and in addition to the Vendor's other obligations hereunder) and as Buyer requests, obtain for Buyer the right to continue using, selling, leasing, licensing Product, or otherwise non-infringing but functionally equivalent Product.
- Compliance with Laws:** In filling this order, Vendor shall comply with all applicable federal, state and local employment and other laws, government regulations and orders. In addition, Vendor represents and warrants that it will not discriminate against any employee or applicant for employment because of race, color, religion, disability, sex, national origin, age, physical or mental disability, veteran status, or any other unlawful criterion and that it shall comply with all applicable laws against discrimination and all applicable rules, regulations and orders issued there under or in implementation thereof. Vendor represents and warrants that no payments have been or will be paid, offered, given, or promised by the Vendor, his agents or employees, directly or indirectly, to: (a) Buyer or any of its divisions, subsidiaries or affiliates, or any directors, officers or employees of Buyer; or (b) any person, firm, or corporation, at the direction of or by arrangement with Buyer, or any directors, officers, or employees of Buyer; or (c) any political party or official thereof, any candidate for political office, or any officer, employee or agent of any government or instrumentality of any government for the purpose of (i) influencing any act or decision of such party, official thereof, candidate, officer, employee, or agent in his or its official capacity, including a decision to fail to perform his or its official functions; or (ii) inducing any such party, official thereof, candidate, officer, employee or agent to use his or its influence with a government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality in order to assist Buyer in obtaining or retaining business for or with, or directing business to, any person, firm, or corporation.
- Price and Payment:** All prices are firm unless otherwise agreed in writing. To ensure proper payment, all invoices, Bills of Lading, Packing Lists, Labels, etc. must include this order number, line item, and part number(s). Payment date of invoices shall be calculated from date of receipt of an acceptable invoice. Vendor warrants that all prices relating to the Products and Services are no less favorable than those extended to any other customer of Vendor for the same or similar products or services in like quantities. If Vendor sells to another at a price more favorable than contained in this order within thirty (30) days of receipt of this order, the price will be adjusted to meet the more favorable term, and Vendor will refund or credit the difference to Buyer. No charges of any kind including but not limited to charges for boxing, packing, loading, bracing or cartage will be allowed unless specifically agreed to by Buyer in writing.
- Termination and Cancellation:** If Vendor 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 Vendor, or a receiver for Vendor is appointed or applied for or an assignment for the benefit of creditors is made by Vendor, Buyer may cancel this order without liability except for the deliveries previously made or for Products and Services covered by this order then completed and subsequently delivered in accordance with all terms of this order. Buyer may terminate this order in whole or in part by ten (10) days written notice to Vendor without cause. Upon receipt of notice of termination, Vendor shall immediately discontinue performance and shall comply with Buyer's instructions concerning disposition of any completed and partially completed Products or Services, work in progress and materials acquired pursuant to this order. In the event of such termination, Buyer's sole and only liability to Vendor shall be Vendor's reasonable cost of performance incurred prior to termination in connection with completed and partially completed Products and Services, work in process and raw materials in Vendor's possession at the time of termination, all of which Vendor shall have the burden of proof, which shall be fully documented and given to Buyer. In no event shall any payment by Buyer exceed the price specified herein for such Products or Services.
- Partial Invalidity:** If in any instance, any provision of this order shall be determined to be invalid or unenforceable under any applicable law, such provision shall not apply in such instance, but the remaining provisions shall be given effect in accordance with their terms.
- Toxic and Hazardous Material:** Vendor shall provide Buyer with an M.S.D.S. for all purchased chemical materials. Any Products required by this order that are deemed hazardous will be packaged, marked and shipped by the Vendor to comply with all applicable federal, state, and local regulations and will further comply with any special Buyer requirements as might be noted on the face of the order.
- Equitable Relief:** Any breach of Vendor's obligation to supply the Products or Services to Buyer would cause irreparable damage to Buyer, and Vendor agrees that for any such breach or threatened breach, in addition to such other remedies as may be available to it under this Agreement, at law or in equity, Buyer shall be entitled to injunctive relief and to enforce its rights by an action for specific performance.
- Dispute Resolution:** Any disputes arising out of or in relation to the provisions of these Terms shall be solved through friendly consultation between the two parties. If the parties hereto fail to solve such dispute by consultation, the parties shall submit the dispute to (in the case of Essex Furukawa Magnet Wire (Suzhou) Ltd.) China International Economic and Trade Arbitration Commission ("CIETAC") Shanghai Branch, or (in the case of Essex Furukawa Magnet Wire (Penang) Sdn. Bhd or Essex Furukawa Magnet Wire (Kuala Lumpur) Sdn. Bhd) the Asian International Arbitration Centre ("AIAC"), in each case for arbitration in accordance with its then current valid arbitration rules. The arbitral award is final and binding upon both parties. The arbitration proceedings shall be conducted in the English and Chinese language in Shanghai, or (in the case of Essex Furukawa Magnet Wire (Penang) Sdn. Bhd or Essex Furukawa Magnet Wire (Kuala Lumpur) Sdn. Bhd) in the English language, and any arbitrator to be selected must be able to function in such written and spoken languages. The arbitration tribunal shall consist of three arbitrators and the presiding arbitrator shall not be a national of the countries of incorporation of either of the contracting parties. The Parties agree that each of them may nominate arbitrators who are not included on CIETAC's or AIAC's panel.
- Additional Terms:** This order shall be interpreted in accordance with, and the construction shall be governed by, the laws of (in the case of Essex Furukawa Magnet Wire (Suzhou) Ltd.) the People's Republic of China ("PRC") or (in the case of Essex Furukawa Magnet Wire (Penang) Sdn. Bhd or Essex Furukawa Magnet Wire (Kuala Lumpur) Sdn. Bhd) Malaysia. Performance of this order shall not be assigned by the Vendor without the prior written consent of Buyer. The rights and remedies herein reserved to Buyer shall be cumulative and additional to any other or further rights and remedies in law or equity. **These Terms are written and executed (in the case of Essex Furukawa Magnet Wire (Suzhou) Ltd.) in a Chinese version and in an English version of equal validity and effect, or (in the case of Essex Furukawa Magnet Wire (Penang) Sdn. Bhd or Essex Furukawa Magnet Wire (Kuala Lumpur) Sdn. Bhd) in an English version. If there is any discrepancy between the Chinese and the English versions, the English version shall prevail.**

采购订单条款和条件 Essex Furukawa Magnet Wire Asia Pacific

- 接受:**以任何方式接受本订单,包括通过传真或其他电子传输方式签署并返还本订单的确认书副本,或装运任何货物或执行本订单下的任何服务,应视为接受本订单正面和反面的条款和条件(以下简称“**条款**”)作为适用于本订单正面所述货物和服务的采购和销售的唯一条款和条件,除非买方和供应商的授权代表签署书面文件同意其他条款和条件。供应商的任何报价、订单确认书或其他文件中的任何附加或相反条款和条件均被视为对这些条款和条件的重大变更,并在此发出对其反对和拒绝的通知。
- 灭失风险:**任何货物、材料或产品(以下简称“**产品**”)的所有权和灭失风险只有在买方按照订单上的指定地点收到产品后才转移给买方,由供应商安排运输并支付运费。拒收产品的灭失风险应在拒收时转移给供应商。
- 交付:**产品和任何工作或服务(以下简称“**服务**”)的运输和交付必须严格遵守本订单背面规定的或买方提供的装运说明和交付日期。时间至关重要。由于供应商未能遵循此类装运说明而导致的任何额外运费将由供应商承担。供应商同意采取所有必要的手段,包括加班或额外轮班,或高价运输,以按时交付产品和服务,所有费用由供应商承担。如果供应商有理由相信任何服务或产品的交付将被延迟,则供应商应立即向买方告知预期延迟的原因和持续时间,买方可自行选择取消本订单,无需对供应商承担任何责任。除非另有书面约定,否则供应商不得做出增加数量的重大承诺,或在不必要的情况下以满足买方的交货时间表为由提前安排生产。供应商应对因其未能按照这些条款提供或交付产品或服务而导致的所有损害负责,包括附带和后果性损害。
- 不可抗力:**如果因供应商延误、天灾、自然灾害、政府或政府机构、恐怖主义、战争或人为破坏,善意遵守任何适用的外国或国内政府法规或命令(无论是否证明无效),火灾,骚乱,无法供应或获取来自正常供应来源的产品、材料、原材料、用品、燃料或公用设施,劳资纠纷,停工,封锁,交通延误,地震,洪水,风暴或其他恶劣天气条件,电力短缺或停电,大流行病,流行病,检疫隔离或其他类似性质的突发公共卫生事件(每种情况均称为“**不可抗力事件**”)等超出未履约方控制范围的非常事件导致该方延迟或未能履行其义务,且该方对此无过错或过失,则该方可免于承担责任。未履约方必须在事件发生后三(3)天内发出此类延迟的书面通知,包括预期的延迟时间。在供应商延迟履行或未能履行期间,买方可自行选择从其他来源购买产品或服务,并相应减少其对供应商下达的计划中的数量,而不承担任何责任,或促使供应商按照买方要求的数量和时间以及这些条款中规定的价格通过其他来源提供产品或服务。如果买方提出要求,供应商应在提出要求后的五(5)天内提供充分的保证,保证延迟不会超过买方认为合适的时间。如果延迟时间超过买方规定的时间,或供应商未能提供充分的保证,保证延迟不会超过该时间,则除其他救济外,买方还可以立即取消本订单或任何订单的全部或部分,而不承担任何责任。如果供应商因不可抗力事件而无法供应产品,供应商应以不低于任何其他方(包括供应商及其关联方)优惠的方式为买方分配其可供应的产品。
- 变更:**供应商应将任何改变产品组成或构造的产品修改或改进通知买方,包括但不限于对物理或电气性能、制造工艺、性能、应用或成本的修改或改变。在供应商向买方提供任何修改后产品之前,供应商必须(i)获得买方采购总监的书面批准;并(ii)自费向买方提供检验和测试修改后产品所需的任何协助。
- 检验和退货:**买方有权随时随地(包括在制造过程中,如可行)检验和测试所有产品和服务的材料和工艺;如果任何此类检验或测试是在供应场所进行的,供应商应免费提供所有合理的设施和协助,以安全、方便地进行检验或测试。如果买方根据其完全及绝对判断认为任何产品在用于买方产品中时不能正常工作,无法达到或实现规定的适用性、形式或功能、不符合规范或与供应商之前提供的产品不一致,则买方保留退货的权利。买方采购部门(亚特兰大或买方工厂)应向供应商指定或授权的销售代表提出退货请求。
- 保证:**供应商保证,根据本订单提供的产品在材料、工艺和设计上没有缺陷,适用于特定用途,并符合提供给买方的或买方提供的所有适用规范、说明、样品和图纸。上述保证涵盖产品的未来性能,期限应为以下较长期限:(a)就产品或包含产品的产品或材料向买方客户提供的保证期限;(b)买方验收材料后一年,或(c)本订单中其他部分可能规定的更长时间。供应商应按照高专业标准和这些条款的条款和条件,以良好、熟练、高效和值得信赖的方式履行服务。供应商应立即纠正服务中的所有错误、缺陷和遗漏,买方无需为此承担任何额外费用。所有保证在检验、验收和付款后仍然有效。如产品不符合保证条件,则除任何其他救济外,买方还可以选择退货退款、由供应商维修或更换此类产品,买方或其客户无需承担任何费用,运输成本以及运输途中的灭失和损坏风险由供应商承担。应严格按照本条款的规定为维修和更换产品提供保证。
- 赔偿:**供应商同意,在买方向供应商发出书面通知后,供应商就以下原因引起的所有损失、索赔、损害、责任、成本和费用(包括但不限于合理的律师费和法院费用)对买方进行赔偿、辩护并使其免受伤害:(i)因根据本订单销售的产品或服务造成的伤害、死亡或经济损失而对供应商或买方提起的任何索赔或诉讼,无论该索赔或诉讼所依据的理论是什么,包括但不限于严格责任、违反明示或暗示的保证、过失或任何其他实质性法律理论;及(ii)针对买方的任何索赔,声称产品或服务或其任何部分侵犯了任何国家/地区的任何专利、版权、商标、商业秘密、掩膜作品或其他知识产权权益。如果因侵权索赔而导致针对买方使用、销售、租赁、许可、分销产品或其任何部分的禁令(或者,如果买方合理地认为有可能导致此类禁令),供应商应自费(并作为对其在本协议项下的其他义务的补充)并根据买方的要求,为买方获得继续使用、销售、租赁、许可产品或其他具有等同功能但不侵权的产品的权利。
- 遵守法律:**在填写本订单时,供应商应遵守所有适用的联邦、州和地方就业和其他法律、政府法规和命令。此外,供应商陈述并保证,其不会因种族、肤色、宗教、残疾、性别、国籍、年龄、身体或精神残疾、退伍军人身份或任何其他非法标准而歧视任何员工或就业申请人,并且其应遵守所有适用的反歧视法律以及根据所述反歧视法律或为实施所述反歧视法律而颁布的所有适用规则、条例和命令。供应商陈述并保证,供应商、其代理人或雇员没有直接或间接(a)向买方或其任何部门、子公司或关联方,或买方的任何董事、高管或雇员,或(b)根据买方或买方的任何董事、高管或雇员的指示或通过其安排向任何个人、公司或企业;或(c)向任何政党或其官员、任何政治职位候选人或者任何政府或政府部门的任何官员、雇员或代理人支付、提供、给予或承诺任何款项,以(i)影响此类政党、其官员、候选人、高管、雇员或代理人以其官方身份做出的任何行为或决定,包括不履行其官方职能的决定;或(ii)诱使任何此类政党、其官员、候选人、高管、雇员或代理人利用其

对政府或政府部门的影响力来影响该政府或政府部门的任何行为或决定,以协助买方为任何个人、公司或企业获得或保留业务,或将业务指定给任何个人、公司或企业。

- 价格和付款:**除非另有书面约定,否则所有价格均为固定价格。为确保正确付款,所有发票、提单、装箱单、标签等均必须注明本订单的订单号、条目和零件号。发票的付款日期应从收到可接受的发票之日起计算。供应商保证,与产品和服务相关的所有价格优惠不低于供应商以类似数量向任何其他客户提供相同或相似产品或服务时提供的优惠。如果供应商在收到本订单后三十(30)天内以比本订单更优惠的价格出售给其他方,则应按照更优惠的条款调整价格,并且供应商应退款或将差额用于抵免买方付款。除非买方书面明确同意,否则不允许收取任何费用,包括但不限于装箱、包装、装载、支撑或搬运费用。
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