

TERMS AND CONDITIONS OF PURCHASE

1. The terms and conditions contained herein constitute the final and complete agreement between ABB Power Protection LLC ("Buyer") and the party from whom Buyer purchases goods and/or services ("Seller"). Buyer and Seller are collectively referred to herein as "the parties."
2. Seller's acknowledgement of any order or release, or commencement of performance constitutes Seller's unqualified acceptance of these terms and conditions. No modification of these terms and conditions and no term or condition stated by Seller in accepting or acknowledging any order or release shall be binding on the parties unless the term or condition has been specifically approved in writing by an authorized representative of Buyer. These terms and conditions shall exclusively control the relationship of the parties, and Buyer hereby gives Seller notice that it rejects all terms and conditions of Seller that are different from or additional to the terms and conditions contained herein. To the extent that any order or release may be treated as an acceptance of any prior offer by Seller, such acceptance is expressly made on the condition that Seller assents to these Terms and Conditions, and any performance by Seller shall constitute such assent. In no event will Buyer's acceptance of goods or services constitute acceptance by Buyer of Seller's terms or conditions.
3. Buyer may provide Seller with forecasts or estimated volumes of its future anticipated purchases. Seller acknowledges that any such forecasts or estimated volumes are for informational purposes only and that forecasts and estimated volumes provided by Buyer do not represent any commitment to purchase the forecasted or estimated amounts, or to purchase any amounts, unless specifically agreed in a written document signed by an authorized representative of Buyer.
4. Time is of the essence. Delivery of any goods shall be made according to Buyer's instructions on the face of the applicable order or release. In the absence of such instructions, delivery terms shall be F.O.B. Buyer's facility for shipments from within the United States; or DDP (Incoterms 2010) Verona, WI for international shipments. No boxing, packing or cartage charges will apply unless specifically stated on the face of the order or releases made under an order.
5. Buyer shall pay Seller within sixty (60) days from the later of receipt of an acceptable invoice or receipt of goods or services. Any cash discount period will apply from the date of actual receipt of the invoice.
6. Seller expressly warrants that all services, goods and materials furnished in response to any order or release will be free from defects in material and workmanship for a period of two (2) years from the date of delivery; will be of the quality, quantity, size, description and dimensions specified by Buyer and will otherwise conform to Buyer's specifications; and will be free from the claim of any third person by way of actual or alleged infringement of any patent, trademark, copyright, trade name, trade dress, trade secret, or any similar right. In addition to the warranties stated herein, goods purchased shall also be subject to any express warranties made by Seller or Seller's agents. Any warranty of merchantability or fitness for a particular purpose is hereby disclaimed. All warranties shall survive inspection, acceptance and payment.
7. Seller agrees to indemnify and defend Buyer, and hold Buyer (and Buyer's employees, officers, directors, affiliates, customers and any other person or entity selling or using Buyer's products, collectively, the "Buyer Indemnitees") harmless from any and all losses, claims, actions, costs, damages, demands, liability (whether statutory, civil or equitable), litigation and expense (including, but not limited to, any counsel, consultant or expert witness fees, and any expenses associated with any product recalls) arising out of, or in any way related to Seller's performance of any order or release, or the goods or services furnished to Buyer by or on behalf of Seller, including any liability for personal injury, death or damage to property of any Buyer Indemnitee or any third party. Buyer may (but shall not be obligated to) participate in the defense of any action brought against Buyer but defended by Seller.
8. Except to the extent that any design or mark is furnished by Buyer, Seller agrees to indemnify and defend the Buyer Indemnitees and to hold the Buyer Indemnitees harmless from and against any losses, claims, actions, costs, damages, liability (whether statutory, civil or equitable), litigation and expenses (including, but not limited to, any counsel, consultant or expert witness fees) arising out of or that may be asserted or brought against them for any actual or alleged infringement of any patent, copyright, trademark, trade name, trade dress, trade secret, or any similar right, or by reason of the sale or use of the services, goods or materials furnished to Buyer by or on behalf of Seller. Seller specifically agrees that it will pay all costs and damages recoverable in any such suit, claim, demand or action, and will reimburse Buyer for all expenses in connection therewith.
9. All goods or materials delivered or work performed under any order or release are subject to inspection and rejection by Buyer in its sole judgment. Buyer may reject any damaged, defective or otherwise nonconforming goods, materials or work within sixty (60) days after receipt thereof, whether or not acceptance or payment has already taken place.
10. Without waiving any other right or remedy available to it, Buyer may return any defective, damaged or otherwise nonconforming goods to Seller, such return to be at Seller's risk and expense. At its sole option, Buyer shall be given credit at the invoice price for such returns; a cash refund at the invoice price; or replacement goods, but in no event shall such goods be replaced by Seller without written authorization from Buyer.
11. Unless specified otherwise, all goods or materials delivered on any order or release must not be in excess of the quantity ordered. Any overshipment may be returned at Seller's risk and expense, or retained by Buyer at no expense to Buyer.
12. Buyer reserves the right to cancel all or any part of any order not filled as specified or not delivered or otherwise performed within the time specified, without prejudice to its other rights, and Seller agrees that Buyer may return part or all of any shipment so made and may charge Seller with any loss or expense sustained as a result of such failure to deliver. Except as otherwise provided herein, any delay or failure by Seller to deliver goods or perform services will be excused only to the extent that such delay or failure is caused by an event or occurrence beyond Seller's reasonable control and without Seller's fault or negligence, such as, by way of example and not limitation, fires, floods, windstorms, explosions, riots, strikes (other than strikes by Seller's employees), natural disasters, and acts of war or terrorism. Upon notification of such an event, Buyer may, at its option, cancel entirely, reschedule delivery of or suspend performance of such portions of the goods, materials or services not yet received by Buyer.

13. Buyer reserves the right to make changes to any order or release. If any such change causes a variation in the cost of, or the time required for, furnishing the goods, materials or services, an equitable adjustment shall be made in the price or delivery schedule, or both. Any claim for adjustment must be asserted within thirty (30) days after such change is ordered. Failure of the Seller to assert its claim within such time shall operate as a waiver and no adjustment will apply.
14. All drawings, models, formulae, samples, data, designs, specifications, inventions and technical information supplied by Buyer ("Buyer Information") shall remain Buyer's property and shall be held in confidence by Seller. Buyer Information shall not be reproduced, used or disclosed to others by Seller without Buyer's prior written consent and shall be returned to Buyer upon completion of performance or upon demand. Any information that Seller may disclose to Buyer with respect to the design, manufacture, sale or use of the goods, materials or services furnished to Buyer under any order or release shall be deemed to have been disclosed as part of the consideration, and Seller shall not assert any claim against Buyer arising out of Buyer's use thereof. The purchase price is full consideration for any design work performed by Seller in connection with any order or release and incorporated in the articles to be delivered thereunder.
15. Unless Buyer's written consent is first obtained, Seller shall not in any manner advertise, publish or release for publication any statement mentioning Buyer or any affiliate of Buyer, or the fact that Seller has furnished or contracted to furnish any goods or services to Buyer.
16. Buyer shall retain title to all patterns, dies, models, molds, tools, special appliances and other materials furnished by or paid for by Buyer ("Buyer's Property"). Seller shall ensure that Buyer's Property is identified as such (by tagging, marking, etc.) while in Seller's possession. Seller shall bear the risk of loss Buyer's Property in its possession, and Seller shall, at Buyer's option, replace or pay to Buyer the replacement value of any of Buyer's Property that is lost, damaged or destroyed while in the custody or possession of Seller. Buyer's Property shall be used only for the production of goods for or the provision of services to Buyer. Buyer's Property shall be subject to disposition by Buyer at any time, and shall be returned to Buyer upon the completion of Seller's performance, to include any materials furnished by Buyer and any spoiled or defective materials or products which may contain any secret, proprietary, or patented device.
17. Seller shall not assign or subcontract any portion of any order or release without first obtaining the written permission of Buyer.
18. Seller will provide with each shipment of goods a detailed packing list and a certificate of origin. In the case of goods that originate in the U.S. and its territories, Canada, or Mexico, Seller shall provide Buyer with a properly executed NAFTA Certificate of Origin. In the event that any shipment to Buyer crosses any international border, regardless of mode of transportation, Seller shall provide to Buyer or Buyer's agent (customs broker) a commercial invoice, a wood packaging material statement and a copy of the carrier's bill of lading (ocean bill of lading, air waybill or other appropriate document). Seller shall provide Buyer or Buyer's agent any additional documentation as reasonably necessary to comply with import or export regulations.
19. Prior to shipping or providing goods, materials or services to Buyer, Seller shall provide to Buyer a written statement describing any Hazardous Materials contained within said goods, materials or services. "Hazardous Materials" means any item which is regulated under any federal or state law or regulation as a hazardous material or hazardous substance. The statement to be provided by Seller to Buyer shall describe the Hazardous Material in sufficient detail to allow the Buyer to properly and safely handle and dispose of the Hazardous Material in accordance with any applicable federal or state law or regulation. If any article shipped to Buyer is regulated by O.S.H.A. standard 29 CFR 1910: 1200 (Hazard Communications Std.), Seller will supply a Material Safety Data Sheet on the initial shipment of the product to a Buyer facility, and an updated MSDS each time there is any change in the article.
20. Seller shall not modify the performance, design, shape, form, color, composition or chemical formulation of any goods or materials ordered by Buyer without prior written notification to Buyer of any such modification. Upon receipt of such notification, Buyer shall have the right, at its sole option, to either accept such modification or cancel all or any part of this order.
21. Buyer shall have the right to at any time set-off any amount owing by Seller to Buyer or any of its affiliates against any amount due and owing to Seller on this order.
22. Seller represents and warrants that Seller's performance of each order or release will be in strict conformance with all applicable federal, state and local laws, statutes, ordinances and regulations, including, but not limited to, the standards promulgated under the Occupational Safety and Health Act, as amended; Executive Order Nos. 11246, 11625, 11701, 11758 and 12138; Section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended, 29 CFR Part 471, Appendix A to Subpart A (Executive Order 13496); the Veteran's Compensation, Education and Employment Amendments of 1982; the E-Verify program as authorized by Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (8 U.S.C. §1324a note); and the rules, regulations, and relevant orders of the Secretary of Labor pertaining to said Executive Orders, including, but not limited to, all provisions of Chapter 60 of Title 41 of the Code of Federal Regulations which are incorporated herein by reference as if set forth verbatim and are made an express part of these Terms and Conditions.
23. Seller covenants that all goods, materials and work to be furnished by Seller were or will be produced in compliance with the requirements of the Fair Labor Standards Act, as amended. The following statement is incorporated by reference in all invoices hereinafter rendered by Seller to Buyer, whether or not specifically stated in each invoice: *"We hereby certify that all goods, materials and work covered by this invoice were produced in compliance with the requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act, as amended from time to time, and with the regulations and orders of the United States Department of Labor issued under Section 14, as amended from time to time."* Further, Seller will not provide any goods or services to Buyer that have been produced through the use of forced labor in any form, including, but not limited to, mental or physical coercion, physical punishment, slavery, human trafficking or other oppressive labor conditions.

24. Seller will disclose to Buyer whether any goods or materials purchased by Buyer contain any minerals or their derivatives that the US Secretary of State has determined are financing conflict in the Democratic Republic of the Congo and adjoining countries, including, but not limited to, cassiterite, columbite-tantalite (coltan), gold, wolframite, tin, tantalum and tungsten mined in or obtained from such countries.
25. Seller shall at all times maintain the following types of insurance in the following minimum amounts:
- A. Worker's Compensation: Statutory Limits.
 - B. Commercial General Liability, including Premises and Operations, Products-Completed Operations and Contractual Liability coverage: \$2,000,000 per occurrence.
 - C. Automobile Liability-Bodily Injury and Property Damage: \$1,000,000 per occurrence.
- Seller's worker's compensation coverage shall include a waiver of rights of subrogation against Buyer and naming Buyer as an additional insured under the above Seller's Commercial General Liability and Automobile Liability policies shall include the Buyer Indemnitees as additional insureds. Seller will furnish to Buyer upon request a Certificate of Insurance evidencing that the Seller has the above insurance in full force and effect. Buyer reserves the right to require Seller to obtain additional types of insurance coverage and/or higher coverage limits where Buyer, in its sole discretion, deems such higher limits or additional coverages to be appropriate.
26. Seller's relationship to Buyer is solely that of an independent contractor. Seller shall be responsible for all costs and expenses associated with an incident to performance of its obligations to Buyer. Seller shall not have the express or implied authority to bind Buyer in any manner.
27. Seller shall be solely responsible for filing appropriate federal, state and local tax forms and the payment of all taxes or fees due with respect to Seller's receipt of payment from Buyer. Buyer shall have no responsibility to pay or withhold from any payments to Seller any federal, state or local taxes or fees.
28. Seller warrants that it will not, directly or indirectly, and that it has no knowledge that other persons will, directly or indirectly, make any payment, gift or other commitment to its customers, to government officials or to agents, directors and employees of Buyer and its affiliates or any other party in a manner contrary to applicable laws (including but not limited to, the U.S. Foreign Corrupt Practices Act and, where applicable, legislation enacted by member States and signatories implementing the OECD Convention Combating Bribery of Foreign Officials) and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption. Nothing herein shall render Buyer or its affiliates liable to reimburse Seller for any such consideration given or promised. Seller's material violation of any of the obligations contained in this paragraph may be considered by Buyer to be a material breach of these Terms and Conditions and shall entitle Buyer to terminate all transactions with Seller with immediate effect and without prejudice to any further right or remedies on the part of Buyer under these Terms and Conditions or applicable law. Seller shall indemnify Buyer and its affiliates for all liabilities, damages, costs or expenses incurred as a result of any such violation of this paragraph.
29. Seller acknowledges and confirms that it has received a copy of ABB's Code of Conduct and the ABB Supplier Code of Conduct or has been provided information on how to access such Codes of Conduct online. Seller agrees to perform its contractual obligations under this Agreement with substantially similar standards of ethical behavior. ABB has established the following reporting channels where Seller and its employees may report suspected violations of applicable laws, policies or standards of conduct:
- Web portal: www.abb.com/integrity
 - Telephone: + 41 43 317 33 67
 - E-mail: ethics.contact@ch.abb.com
- ABB Ltd, Legal & Integrity, Affolternstrasse 44, 8050 Zurich, Switzerland
30. In no event will Buyer be liable to Seller for any incidental, indirect, special, consequential or punitive damages (to include lost revenues or profits, whether or not Buyer was advised of the possibility of such damages) arising out any the order or release issued by Buyer.
31. The validity, construction and interpretation of Buyer's orders and releases; the sale of goods by Seller to Buyer; the performance of any services by Seller for Buyer; the transaction of business between Seller and Buyer; the rights and duties of the parties with respect to such sale, performance and/or transaction of business; and any disputes arising out of the foregoing shall be governed by and construed under the laws of the Commonwealth of Virginia, U.S.A. without regard to its conflicts of law rules and without regard to the United Nations Convention on Contracts for the International Sale of Goods.
32. Buyer may at any time insist upon strict compliance with these Terms and Conditions, notwithstanding any previous custom, practice or course of dealing to the contrary. Any remedy provided herein shall be cumulative and additional to other remedies that may be available to Buyer under law or equity. Neither failure nor delay on the part of Buyer to assert any right or remedy hereunder or to insist upon strict performance of any provision hereof shall operate as a waiver of such right or remedy, nor shall any single or partial exercise of any such right or remedy preclude any other of further exercise or the exercise of any other right or remedy.
33. In the event that any provision of these Terms and Conditions shall be declared by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the remaining provisions shall survive in full force and effect and shall not in any way be affected or impaired thereby.