

**ABB POWER PROTECTION LLC
STANDARD TERMS AND CONDITIONS
FOR SERVICE AGREEMENTS**

1. ACCEPTANCE OF TERMS: THESE TERMS AND CONDITIONS SHALL APPLY TO ALL QUOTATIONS MADE BY AND SUBSEQUENT ORDERS RECEIVED BY ABB POWER PROTECTION LLC (REFERRED TO HEREIN AS "SELLER"). SUBMITTING A PURCHASE ORDER; INITIATING ANY NOTIFICATION TO COMMENCE PERFORMANCE; TAKING RECEIPT OF ANY ITEMS IN PERFORMANCE OF AN ORDER; OR ACCEPTING A PRICE QUOTATION OF SELLER FOR THE PRODUCTS AND/OR SERVICES DESCRIBED THEREIN, SHALL CONSTITUTE PURCHASER'S UNQUALIFIED ACCEPTANCE OF AND AGREEMENT TO BE BOUND BY THESE TERMS AND CONDITIONS, REGARDLESS OF WHETHER SELLER HAS RECEIVED A SIGNED AGREEMENT FROM PURCHASER. EXCEPT AS OTHERWISE AGREED IN WRITING AND SIGNED BY SELLER, THESE TERMS AND CONDITIONS SHALL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN SELLER AND THE PARTY PURCHASING ITS SERVICES (REFERRED TO HEREIN AS "PURCHASER"). NO UNDERSTANDINGS OF AGREEMENTS WHICH DIFFER FROM, MODIFY OR ADD TO THESE TERMS AND CONDITIONS, AND NO ADDITIONS, DELETIONS OR MODIFICATIONS PROPOSED BY PURCHASER IN ITS PRINTED FORMS OR OTHERWISE SHALL BIND SELLER IN ANY MANNER, REGARDLESS OF WHETHER SUCH UNDERSTANDINGS, AGREEMENTS, ADDITIONS, DELETIONS OR MODIFICATIONS WOULD MATERIALLY ALTER THE TERMS HEREOF AND REGARDLESS OF ANY TERMS TO THE CONTRARY STATED THEREIN. NO ADDITIONS TO OR MODIFICATIONS OF ANY OF THE TERMS AND CONDITIONS HEREOF SHALL BE EFFECTIVE UNLESS MADE IN WRITING AND SIGNED BY BOTH PARTIES.

All purchase orders or service contracts must be approved and accepted by Seller. Stenographic and clerical errors are subject to correction.

Seller's Quotation and any resulting order/contract and the relationship of the parties thereunder shall be governed by and interpreted in accordance with the laws of the State of Virginia.

2. PAYMENT TERMS: Unless otherwise specified herein, all payments are due and payable in U.S. currency terms are NET 30 days, after invoice, prior to the effective commencement date of the service contract. The terms of payment stated will be strictly applied. Prices quoted are based on these terms and do not allow for variations or extensions. If within the period of such notice, Purchaser fails or refuses to agree to such accelerated terms of payment, Seller may, at its option, without prejudice to other lawful remedies, treat such failure or refusal as a repudiation of the order, or may defer delivery or cancel the order. Any advance payments required hereunder shall be made prior to execution of the Agreement.
3. SERVICE SCHEDULE: Seller's Field Service Department will contact the Purchaser to schedule the Preventative Maintenance. Service dates given by Seller are approximate and are based on prompt receipt of all necessary information regarding the order. Seller will use its best efforts to meet the Service dates as mutually agreed, but cannot be held responsible for its failure to do so for causes beyond its reasonable control and in no event shall it be liable for any loss or damage resulting from its failure to deliver within the time specified herein. Service can be scheduled by calling Seller at 1-800- 292-3739.
4. HOURS OF SERVICE: Seller will provide service during the Principal Period of Maintenance (PPM), which is defined as normal business hours (Monday-Friday 8am - 5pm "8x5 service") Excluding holidays observed by Seller. The contracted period on Maintenance (CPM) is the PPM along with any additional extended hours of coverage optionally purchased by Purchaser (alternately describes "7x24 Service") and excludes all Seller observed holidays for planned maintenance activities. Seller's observed holidays are as follows: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Post-Thanksgiving Day, Christmas Eve Day and Christmas Day.
5. SCOPE OF SERVICE: As optionally purchased by the Purchaser, Seller will provide Start-Up services during the CPM, for new or relocated equipment. Start-Up services will be limited to visual and mechanical inspections of the installation, electrical pre-checks, initial equipment energizing, verification of system operation and user optional training defined by Seller.
6. DELAYS: Seller reserves the right to invoice Purchaser at prevailing rates for delays or correction of conditions beyond the control of Seller, including but not limited to postponements, cancellation, or delays of work while en-route to, or at

equipment location, performance of services not covered by equipment warranty or other valid service agreement, and correction of installation errors, except where Seller has installed or supervised the installation of the equipment.

7. **LABOR AND MATERIAL RATES:** For any additional services, outside the scope of services purchased for the equipment covered under the agreement, Purchaser shall be billed as per Seller's then current Time and Material service rate schedule. Contracted discount rates only apply to equipment currently covered under an active service agreement.
8. **INSURANCE:** Seller agrees to maintain at its expense during the term of this Agreement policies of commercial or comprehensive general liability insurance (to include contractual liability and products/completed operations liability) and automobile liability insurance, each with policy limits of - \$2,000,000 per occurrence and \$5,000,000 in the annual aggregate, and policies of workers compensation insurance with such limits of coverage as are required by law.
9. **TRAINING:** The Purchaser is responsible for the cost of any formal training. Time will be billed at then current rates.
10. **TAXES:** Prices do not include state or local sales, use, excise, or any import or export duty unless otherwise stated on the face of this form. All taxes are the sole responsibility of the Purchaser.
11. **PREVENTATIVE MAINTENANCE SERVICES:** Seller shall provide, for the equipment described on the face hereof (the "Equipment"), its standard preventive maintenance services customarily provided for similar equipment for the term and number of visits selected by Purchaser and set forth on the face of the service quotation (which visits shall be reasonably spaced throughout the term selected by Purchaser). Seller shall also provide the optional services selected by Purchaser and set forth on the service quotation. All preventative maintenance services cover only Equipment purchased from Seller. The service technician is prohibited from servicing any equipment not provided by Seller. Any parts necessary for repairs are FOB Origin and provided at Purchaser's expense, and shall be separately invoiced at Seller's then current prices.

If, in the course of a preventative maintenance check-up Seller determines that repairs are required on the Equipment, Seller shall advise Purchaser orally or in writing. Seller shall make no repairs to the Equipment until authorized by Purchaser to perform such repairs. Seller shall provide to Purchaser, at no cost, the test equipment necessary to perform the preventative maintenance services provided the actual served load of the Equipment can be used as a test load. Otherwise, test equipment shall be provided only at Purchaser's expense.

12. **OBLIGATIONS OF PURCHASER UNDER PREVENTATIVE MAINTENANCE SERVICE AGREEMENT:** Purchaser shall make a record of and shall promptly report to Seller any unusual occurrence, malfunction or other problem relating to the Equipment. Purchaser shall provide Seller with free access to the Equipment during each scheduled preventative maintenance or repair visit. While Seller is at Purchaser's facility to inspect, maintain or service the Equipment, Purchaser shall make the Equipment available and safe for servicing, including but not limited to, by-passing the electrical load for the Equipment. If Purchaser is unable to make the Equipment available for servicing at the scheduled appointment, Purchaser shall pay to Seller an amount equal to the waiting time incurred by Seller at Seller's then current service rates.
13. **WARRANTY:** Seller warrants the Services as follows:

Elite Service Plan: Service is warranted against defects in labor and against defects in parts during the term of the Agreement. Liability under this warranty is limited to re-performance and replacement of any defective labor and parts.

Supreme Service Plan: Service is warranted against defects in labor for the term of the Agreement, and against defects in parts for a period of one (1) year from the date of installation. Liability under this warranty is limited to re-performance and replacement of any defective labor and parts.

Basic Plus PMA (PM Only) Agreements and Time & Material (T&M) Services: Service is warranted against defects in labor for a period of ninety (90) days from the date of service, and against defects in parts for a period of one (1) year from the date of installation. Liability under this warranty is limited to re-performance and replacement of any defective labor and parts.

Reliability Enhancements: If a Reliability Enhancement is purchased in conjunction with a Preventative Maintenance Agreement (PMA), the applicable PMA warranty shall apply. If a PMA is not purchased in conjunction with a Reliability Enhancement, the Warranty relating to T&M Services shall apply.

If Customer purchases a Reliability Enhancement, the following additional terms and conditions shall apply as follows:

- A restocking fee of 25% will apply to all returned items.
- A cancellation fee of 15% will apply to order cancellation of all non-custom items.
- Custom items are non-cancellable and non-returnable.
- For terms other than FOB Richmond, VA, 2% of the order total will be added to cover additional freight charges

Parts Only: Seller agrees, subject to the terms of this limited Parts Only warranty, to correct any defects in materials or workmanship in any parts covered by this limited warranty which occurs during normal use and is reported to Seller in writing within twelve (12) months from the date of shipment. Seller's obligations hereunder shall be to provide, on an exchange basis, the part or parts necessary to correct any defect covered by this Parts Only warranty. Replacement parts shall be shipped FOB Origin, freight allowed. Seller will pay normal surface transportation charges for delivery of replacement parts to the product location, but shall not be liable for any other expenses, including the cost of returning any part to be replaced to Seller for exchange. If, in the opinion of Seller it is not practical to correct the defect by an exchange of parts, Seller will provide a service engineer to correct the defect at no cost except for transportation and living expenses directly related to the repair, provided the covered product is located within the continental U.S.A.. If, upon the inspection of any product to which this warranty applies, Seller determines that a claimed defect was not due to its workmanship or materials, Seller will proceed to repair and service the product at Purchaser's expense and approval. This warranty shall be null and void upon service, repair or replacement of any product or any modification performed by anyone other than an authorized service representative of Seller. Purchaser's remedies under this limited Parts Only warranty are exclusive of all others.

Seller's warranty obligations with respect to all components, equipment and accessories that are integrated into a Cyberex brand product or a United Power brand product, such as batteries or special transformers, regulators or rectifiers, shall be limited to those express written warranties made to Seller by the manufacturer, which Seller hereby assigns and transfers to Purchaser.

THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY AND PERFORMANCE, WHETHER WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USAGE OF TRADE ARE HEREBY DISCLAIMED.

14. **LIMITATION OF LIABILITY:** In no event shall Seller be liable for, and Purchaser specifically waives all claims against Seller for consequential, incidental and special damages, whether or not based upon negligence, breach of warranty, strict liability in tort or any other theory of liability or cause of action. UNDER NO CIRCUMSTANCES SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE PRICE PAID HEREUNDER FOR THE GOODS AND SERVICES PROVIDED.
15. **PATENT INDEMNIFICATION:** Seller will defend any suit or proceeding brought against Purchaser so far as the same is based on a claim that any product or service furnished by Seller infringes any United States patent, if notified promptly in writing and given authority, information and assistance (at Seller's expense) for the sole defense and settlement of the same, and if such alleged infringement is not the result of a design or other special requirement specified by Purchaser or the result of an application or use to which such product is put by Purchaser or others. Seller will pay all damages and costs awarded in such suit or proceeding against Purchaser. In the event that any such product or part thereof are held to infringe any such patent, and the Purchaser's use thereof is enjoined, Seller shall, at its expense and option, either (a) obtain for Purchaser the right to use continue using such product or part thereof, (b) replace the same with non-infringing product, (c) modify the product so that it becomes non-infringing, or (d) remove said product and refund the purchase price, less applicable depreciation, and the transportation and installation cost thereof.
16. **CONTRACT RENEWAL:** Each Preventative Maintenance contract will automatically renew every year on its renewal date unless Purchaser notifies Seller in writing of its election not to renew no later than thirty (30) days prior to the expiration of the contract period. Seller will provide Purchaser a renewal notice sixty (60) days prior to expiration which will include prices in effect for the next renewal period. If the Purchaser fails to notify Seller in writing at least thirty (30) days prior to the contract expiration, the contract will automatically renew, and the Purchaser will be invoiced at the prices in effect at the time of each renewal.
17. **TERMINATION OF PREVENTATIVE MAINTENANCE AGREEMENTS AND SERVICE VISITS:** Either party may

terminate a Preventative Maintenance or service agreement at any time without cause by giving the other party at least a ninety (90) day prior written notice of its election to so terminate. Upon termination Purchaser shall receive a refund of amounts previously paid based upon the number of preventative maintenance inspections not yet made, less a cancellation fee of thirty percent (30%) of the annual agreement price if Purchaser is the terminating party.

In the event Seller terminates the preventative maintenance or service agreement due to its determination that Buyer subjected the Equipment to abuse, misuse or unauthorized/undocumented modifications or adjustments, no refund shall be made to Buyer.

18. EXPORT/IMPORT: Purchaser agrees to adhere to all applicable import and export control laws, regulations, orders and requirements, including but not limited to those of the United States and the jurisdictions to or through which the purchased goods are transported. With respect to orders that have been accepted by ABB but not delivered, ABB commits (i) to full transparency in regard to the cost increases associated with any legislation or tariffs; and (ii) that any increases resulting from changes in legislation or tariffs will solely reflect the additional costs incurred as a result of legislation or tariffs and will not include any additional overhead costs or profits.

19. FORCE MAJEURE / DELAYS: Seller shall neither be liable for loss, damage, detention or delay nor be deemed to be in default for failure to perform when prevented from doing so by causes beyond its reasonable control including but not limited to acts of war (declared or undeclared), Acts of God, fire, strike, labor difficulties, acts or omissions of any governmental authority or of Purchaser, compliance with government regulations, insurrection or riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, materials, or manufacturing facilities from usual sources or from defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing enumerated causes. In the event of delay due to any such cause, the date of delivery will be extended by period equal to the delay plus a reasonable time to resume production.

20. ARBITRATION: Any controversy or claim arising out of or relating to this contract/order or breach thereof will be finally settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the controversy or claim. Arbitration proceedings shall occur in the county of residence of Seller in the State of Virginia.

Seller is an Equal Employment Opportunity/Affirmative Action Employer M/F/H/V.

IN WITNESS WHEREOF, _____ executes this Agreement effective as of _____ day of _____, 2019.

CUSTOMER:

Signature

Print Name

Company Name