



ABB INC. ELECTRIFICATION PRODUCTS DIVISION
GENERAL TERMS AND CONDITIONS OF SALE

1. General.

- (a) Except to the extent otherwise stated in a separate agreement signed by ABB Inc., acting through its Electrification Products Division ("EP"), or its affiliates (collectively referred to as "ABB"), these ABB Inc. Electrification Products Division General Terms and Conditions of Sale contained herein, together with any additional or different terms contained in ABB's proposal or quotation ("Proposal") submitted to the customer buying ABB goods and/or services ("Purchaser"), which Proposal shall control over any conflicting terms herein, if any, constitute the entire agreement (the "Agreement") between the parties with respect to any order placed by Purchaser, and supersede all prior communications and agreements regarding the order.
- (b) The Agreement shall exclusively govern all transactions or orders placed with ABB by Purchaser and may not be changed or superseded by any different or additional terms and conditions proposed by Purchaser, to which terms ABB hereby objects. Acceptance by ABB of the order, or Purchaser's acceptance of ABB's Proposal, is expressly limited to and conditioned upon Purchaser's acceptance of this Agreement. Payment for or acceptance of any performance by ABB shall also constitute acceptance of the Agreement herein.
- (c) Unless the context otherwise requires, the term "Equipment" as used herein means all of the products, equipment, parts, accessories sold by ABB, and all software and software documentation, if any, licensed to Purchaser by ABB ("Software") under the order.
- (d) Unless the context otherwise requires, the term "Services" as used herein means all labor, supervisory, technical and engineering, installation, repair, consulting or other services provided by ABB under the order.
- (e) As used herein, the term "Purchaser" means the party placing an order with ABB and shall include the initial end user of the Equipment and/or Services; provided, however, that Article 13(a) shall apply exclusively to the initial end user.

2. Prices.

- (a) Unless otherwise specified in writing, all Proposals expire thirty (30) days from the date thereof.
- (b) Proposal numbers must be referenced and purchase orders must include the quoted prices to receive quoted discounts. Failure to include this information will result in orders charged at standard price. Proposals are subject to ABB's interpretation of the requirements and include only the material described and listed on the Proposal.
- (c) All quoted prices are subject to revision by ABB at any time in the event of any increase in raw material or energy costs. All clerical, typographical and mathematical errors in any Proposal are subject to correction by ABB.
- (d) Unless otherwise stated herein or in a separate agreement signed by ABB, Services prices are based on normal business hours (8 a.m. to 5 p.m. Monday through Friday). Overtime and Saturday hours will be billed at one and one-half (1 1/2) times the hourly rate; and Sunday hours will be billed at two (2) times the hourly rate; holiday hours will be billed at three (3) times the hourly rate. If a Services rate sheet is attached hereto, the applicable Services rates shall be those set forth in the rate sheet. Rates are subject to change without notice.
- (e) The price does not include any federal, state or local property, license, privilege, sales, use, excise, gross receipts, or other like taxes which may now or hereafter be applicable. Purchaser agrees to pay or reimburse any such taxes which ABB or its suppliers are required to pay or collect. If Purchaser is exempt from the payment of any tax or holds a direct payment permit, Purchaser shall, upon order placement, provide ABB a copy, acceptable to the relevant governmental authorities of any such certificate or permit.
- (f) The price includes customs duties and other importation or exportation fees, if any, at the rates in effect on the date of ABB's Proposal. Any change after that date in such duties, fees, or rates, shall increase the price by ABB's additional cost.
- (g) Any discounts taken against the invoiced price will be rebilled. ABB reserves the right to reject orders with incorrect terms.
- (h) Orders of any size will be accepted. However, orders less than one hundred fifty dollars (\$150) are subject to a handling charge of twenty-five dollars (\$25.00). This handling charge does not apply to any orders transmitted via T&B Access (or its equivalent successor). However, ABB's Installation Products ("EPIP") utility market Equipment must have a minimum purchase order value of at least five hundred dollars (\$500).
- (i) Prices, minimum/multiple amounts and inventory classes are subject to change without notice and are those in effect at the time of the shipment.
- (j) Equipment items indicated with minimum/multiple package quantities are not breakable under any circumstances. This includes drop shipments, special handling, and samples. There will be no system overrides to separate package quantities on an order basis.
- (k) All orders, whether entered manually or via EDX, are subject to carton lot rounding. Certain Equipment items are packaged and sold in minimum/multiple lots only. Make-to-Order Equipment may be subject to minimum order quantities if no current stock or inventory exists at the time an order is placed.
- (l) Orders for Equipment with Make-to-Order (MTO) inventory classifications may be shipped and invoiced ten percent (10%) above or below the quantity on the order due to manufacturing lot sizes. Inventory classifications are subject to change without notice and are in effect at time of shipment.

3. Payment.

- (a) Unless specified to the contrary in writing by ABB, payment terms are net cash, payable without offset, in United States Dollars, 30 days from date of invoice by wire transfer to the account designated by ABB in the Proposal.
- (b) If in the judgment of ABB, the financial condition of Purchaser at any time prior to delivery does not justify the terms of payment specified, ABB may require payment in advance, payment security satisfactory to ABB, or ABB may terminate the order, whereupon ABB shall be entitled to receive reasonable cancellation charges. If delivery is delayed by Purchaser, payment shall be due on the date ABB is prepared to make delivery. Delays in delivery or nonconformities in any installments delivered shall not relieve Purchaser of its obligation to accept and pay for remaining installments.
- (c) Purchaser shall pay, in addition to the overdue payment, a late charge equal to the lesser of one and one-half percent (1 1/2%) per month or any part thereof or the highest applicable rate allowed by law on all such overdue amounts plus ABB's attorneys' fees and court costs incurred in connection with collection.



(d) All credits are subject to deduction of any applicable prompt pay discount. All credits issued by ABB expire one hundred eighty (180) days from the original date of issue.

4. Changes.

(a) Any changes requested by Purchaser affecting the ordered scope of work must be accepted by ABB and resulting adjustments to affected provisions, including price, schedule, and guarantees mutually agreed in writing prior to implementation of the change.

(b) ABB may, at its expense, make such changes in the Equipment or Services as it deems necessary, in its sole discretion, to conform the Equipment or Services to the applicable specifications. If Purchaser objects to any such changes, ABB shall be relieved of its obligation to conform to the applicable specifications to the extent that conformance may be affected by such objection.

5. Delivery.

(a) All Equipment manufactured, assembled or warehoused in the continental United States is delivered FCA ABB point of shipment, Incoterms® 2010, to destinations in the United States. Equipment shipped to destinations outside the United States will be delivered Ex Works ABB Warehouse, Incoterms® 2010. Purchaser shall be responsible for any and all demurrage or detention charges.

(b) Full freight will be allowed on domestic shipments of EPIP, EP Smart Power ("EPSP") and EP Smart Buildings ("EPSB") Equipment orders of three thousand (\$3,000) dollars or more to destinations in the continental United States. However, the minimum order amount for freight allowance on EPIP cable tray only Equipment orders is six thousand five hundred (\$6,500) dollars, the minimum order amount for freight allowance on specified Ocal® only Equipment orders is six thousand five hundred (\$6,500) dollars and the minimum order amount for freight allowance on Carlon® only Equipment orders is one thousand five hundred (\$1,500) dollars. Purchaser is responsible for freight charges on specified ABB Jokab Safety® fencing Equipment. Other Equipment lines may be subject to unique freight terms; contact your sales rep for clarification.

(c) When the transportation charges are the responsibility of or assumed by Purchaser, ABB will ship via freight collect or third party per Purchaser's request. Otherwise, ABB will ship and add all applicable transportation and handling charges to the invoice.

(d) ABB will not drop ship orders outside of the United States. Purchaser will be responsible for providing its own export documentation at the border and will make necessary arrangements for export formalities regarding these shipments.

(e) ABB will use its discretion in routing all shipments. Air shipments will be made upon request by Purchaser, if Purchaser will assume all transportation and handling charges.

(f) All accepted orders, whether or not delivery dates are specified thereon, are subject to delays or failures in manufacture or delivery due to Force Majeure.

(g) If the scheduled delivery of Equipment is delayed by Purchaser or by Force Majeure, ABB may move the Equipment to storage for the account of and at the risk of Purchaser whereupon it shall be deemed to be delivered.

(h) Shipping and delivery dates are contingent upon Purchaser's timely approvals and delivery by Purchaser of any documentation required for ABB's performance hereunder.

(i) Claims for shortages or other administrative errors in delivery must be made in writing to ABB within ten (10) days of delivery. Equipment may not be returned except with the prior written consent of and subject to terms specified by ABB. Claims for damage after delivery shall be made directly by Purchaser with the common carrier. All other claims (including claims for pricing errors and special price agreement claims) must be made within one hundred eighty (180) days of the date of invoice. Claims beyond one hundred eighty (180) days will be disallowed.

6. Title & Risk of Loss.

Except with respect to Software (for which title shall not pass, use being licensed) title to Equipment shall remain in ABB until fully paid for. Notwithstanding any agreement with respect to delivery terms or payment of transportation charges, risk of loss or damage shall pass to Purchaser upon delivery according to the applicable freight term.

7. Inspection, Testing and Acceptance.

(a) Any inspection by Purchaser of Equipment on ABB's premises shall be scheduled in advance to be performed during normal working hours.

(b) If the order provides for factory acceptance testing, ABB shall notify Purchaser when ABB will conduct such testing prior to shipment. Unless Purchaser states specific objections in writing within ten (10) days after completion of factory acceptance testing, completion of the acceptance test constitutes Purchaser's factory acceptance of the Equipment and its authorization for shipment.

(c) If the order provides for site acceptance testing, testing will be performed by ABB personnel to verify that the Equipment has arrived at site complete, without physical damage, and in good operating condition. Completion of site acceptance testing constitutes full and final acceptance of the Equipment. If, through no fault of ABB, acceptance testing is not completed within thirty (30) days after arrival of the Equipment at the site, the site acceptance test shall be deemed completed and the Equipment shall be deemed accepted.

8. Warranties and Remedies.

(a) Equipment and Services Warranty. ABB warrants that Equipment (excluding Software, which is warranted as specified in paragraph (d) below) shall be delivered free of defects in material and workmanship and that Services shall be free of defects in workmanship. Unless a different time period ("Warranty Remedy Period") is specified herein below or on the Equipment packaging or instructions, the Warranty Remedy Period for Equipment (excluding Software, Spare Parts and Refurbished or Repaired Parts) shall end twelve (12) months after installation or eighteen (18) months after date of shipment, whichever first occurs. The Warranty Remedy Period for new spare parts shall end twelve (12) months after date of shipment. The Warranty Remedy Period for refurbished or repaired parts shall end ninety (90) days after date of shipment. The Warranty Remedy Period for Services shall end ninety (90) days after the date of completion of Services. The Warranty Remedy Period for EPIP Equipment shall be as follows: (i) twenty-four (24) months from date of shipment for all EPIP product lines not specifically identified herein, except for tools, which are warranted for ninety (90) days; (ii) Fisher Pierce products and Elastimold® Reclosers shall be warranted for thirty-six (36) months from date of shipment; and (iii) Joslyn® VBT and VBU capacitor switches are warranted for forty-eight (48) months or forty thousand (40,000) operations, whichever occurs first.

(b) Equipment and Services Remedy. If a nonconformity to the foregoing warranty is discovered in the Equipment or Services during the applicable Warranty Remedy Period, as specified above, under normal and proper use and provided the Equipment has been properly



stored, installed, operated and maintained and written notice of such nonconformity is provided to ABB promptly after such discovery and within the applicable Warranty Remedy Period, ABB shall, at its option, either (i) repair or replace the nonconforming portion of the Equipment or re-perform the nonconforming Services or (ii) refund the portion of the price applicable to the nonconforming portion of Equipment or Services. If any portion of the Equipment or Services so repaired, replaced or re-performed fails to conform to the foregoing warranty, and written notice of such nonconformity is provided to ABB promptly after discovery and within the original Warranty Remedy Period applicable to such Equipment or Services or thirty (30) days from completion of such repair, replacement or re-performance, whichever is later, ABB will repair or replace such nonconforming Equipment or re-perform the nonconforming Services. The original Warranty Remedy Period shall not otherwise be extended.

(c) Exceptions. ABB shall not be responsible for providing temporary power, removal, installation, reimbursement for labor costs or working access to the nonconforming Equipment, including disassembly and re-assembly of non-ABB supplied equipment, or for providing transportation to or from any repair facility, or for any other expenses incurred in connection with the repair or replacement, all of which shall be at Purchaser's risk and expense. ABB shall have no obligation hereunder with respect to any Equipment which (i) has been improperly repaired or altered; (ii) has been subjected to misuse, negligence or accident; (iii) has been used in a manner contrary to ABB's instructions; (iv) is comprised of materials provided by or a design specified by Purchaser; or (v) has failed as a result of ordinary wear and tear. Equipment supplied by ABB but manufactured by others is warranted only to the extent of the manufacturer's warranty, and only the remedies, if any, provided by the manufacturer will be allowed.

(d) Software Warranty and Remedies. ABB warrants that, except as specified below, the Software will, when properly installed, execute in accordance with ABB's published specification. If a nonconformity to the foregoing warranty is discovered during the period ending one (1) year after the date of shipment and written notice of such nonconformity is provided to ABB promptly after such discovery and within that period, including a description of the nonconformity and complete information about the manner of its discovery, ABB shall correct the nonconformity by, at its option, either (i) modifying or making available to the Purchaser instructions for modifying the Software; or (ii) making available at ABB's facility necessary corrected or replacement programs. ABB shall have no obligation with respect to any nonconformities resulting from (i) unauthorized modification of the Software or (ii) Purchaser-supplied software or interfacing. ABB does not warrant that the functions contained in the software will operate in combinations which may be selected for use by the Purchaser, or that the software products are free from errors in the nature of what is commonly categorized by the computer industry as "bugs".

(e) THE FOREGOING WARRANTIES CONTAINED HEREIN 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. THE REMEDIES STATED HEREIN CONSTITUTE PURCHASER'S EXCLUSIVE REMEDIES AND ABB'S ENTIRE LIABILITY FOR ANY BREACH OF WARRANTY.

9. Patent Indemnity.

(a) ABB shall defend at its own expense any action brought against Purchaser alleging that the Equipment or the use of the Equipment to practice any process for which such Equipment is specified by ABB (a "Process") directly infringes any claim of a patent of the United States of America and shall pay all damages and costs finally awarded in any such action, provided that Purchaser has given ABB prompt written notice of such action, all necessary assistance in the defense thereof and the right to control all aspects of the defense thereof including the right to settle or otherwise terminate such action in behalf of Purchaser.

(b) ABB shall have no obligation hereunder and this provision shall not apply to: (i) any other equipment or processes, including Equipment or Processes which have been modified or combined with other equipment or process not supplied by ABB; (ii) any Equipment or Process supplied according to a design, other than an ABB design, required by Purchaser; (iii) any products manufactured by the Equipment or Process; (iv) any patent issued after the date hereof; or (v) any action settled or otherwise terminated without the prior written consent of ABB.

(c) If, in any such action, the Equipment is held to constitute an infringement, or the practice of any Process using the Equipment is finally enjoined, ABB shall, at its option and its own expense, procure for Purchaser the right to continue using said Equipment; or modify or replace it with non-infringing equipment or, with Purchaser's assistance, modify the Process so that it becomes non-infringing; or remove it and refund the portion of the price allocable to the infringing Equipment. THE FOREGOING PARAGRAPHS STATE THE ENTIRE LIABILITY OF ABB AND EQUIPMENT MANUFACTURER FOR ANY PATENT INFRINGEMENT.

(d) To the extent that said Equipment or any part thereof is modified by Purchaser, or combined by Purchaser with equipment or processes not furnished hereunder (except to the extent that ABB is a contributory infringer) or said Equipment or any part thereof is used by Purchaser to perform a process not furnished hereunder by ABB or to produce an article, and by reason of said modification, combination, performance or production, an action is brought against ABB, Purchaser shall defend and indemnify ABB in the same manner and to the same extent that ABB would be obligated to indemnify Purchaser under this "Patent Indemnity" provision.

10. Limitation of Liability.

(a) IN NO EVENT SHALL ABB, ITS SUPPLIERS OR SUBCONTRACTORS BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE EQUIPMENT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, UP AND DOWN EXPENSES, DOWNTIME COSTS, DELAYS, AND CLAIMS OF CUSTOMERS OF THE PURCHASER OR OTHER THIRD PARTIES FOR ANY DAMAGES.

(b) FURTHERMORE, ABB'S OVERALL LIABILITY FOR ANY CLAIM WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, OR FROM THE DESIGN, MANUFACTURE, SALE, DELIVERY, RESALE, REPAIR, REPLACEMENT, INSTALLATION, TECHNICAL DIRECTION OF INSTALLATION, INSPECTION, OPERATION OR USE OF ANY EQUIPMENT COVERED BY OR FURNISHED UNDER THIS AGREEMENT, OR FROM ANY SERVICES RENDERED IN CONNECTION THEREWITH, SHALL IN NO CASE (EXCEPT AS PROVIDED IN THE SECTION ENTITLED "PATENT INDEMNITY") EXCEED THE PURCHASE PRICE ALLOCABLE TO THE EQUIPMENT OR PART THEREOF OR SERVICES WHICH GIVES RISE TO THE CLAIM.

ABB Inc.



(c) All causes of action against ABB arising out of or relating to this Agreement or the performance or breach hereof shall expire unless brought within one (1) year of the time of accrual thereof.

(d) In no event, regardless of cause, shall ABB be liable for penalties or penalty clauses of any description or for indemnification of Purchaser or others for costs, damages, or expenses arising out of or related to the Equipment and/Services.

11. Laws and Regulations.

(a) ABB does not assume any responsibility for compliance with federal, state or local laws and regulations, except as expressly set forth herein, and compliance with any laws and regulations relating to the operation or use of the Equipment or Software is the sole responsibility of the Purchaser.

(b) By placing an order with ABB, Purchaser represents, warrants and covenants that Purchaser will comply with all applicable laws and regulations of the United States and all other jurisdictions regarding the marketing, sale, export and distribution of ABB Equipment, including, but not limited to, the U.S. Export Control Laws and the U.S. Foreign Corrupt Practices Act. Furthermore, Purchaser represents, warrants and covenants that Purchaser has not paid, offered to pay, agreed to pay, or authorized or caused to be paid, directly or indirectly, any money or anything of value to any foreign official (as defined in the U.S. Foreign Corrupt Practices Act) to induce such official to use their influence to obtain an improper business advantage in connection with the purchase and resale of ABB Equipment.

(c) All laws and regulations referenced herein shall be those in effect as of the Proposal date. In the event of any subsequent revisions or changes thereto, ABB assumes no responsibility for compliance therewith. If Purchaser desires a modification as a result of any such change or revision, it shall be treated as a change per Article 4.

(d) Prior to the delivery of the Equipment, if in the country, state or municipality where the Equipment is being delivered, any law, regulation, tariff, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed, which shall be deemed to include any change in interpretation or application by the competent authorities, that subsequently increases the costs and expenses of ABB and/or the applicable time for completion of the Equipment, then the price shall be correspondingly increased, and/or the time for completion shall be reasonably adjusted to the extent that ABB has thereby been affected in the performance of any of its obligations under the Proposal or applicable order. ABB commits that any increases will solely reflect the additional costs incurred as a result of legislation or tariffs and will not include any additional overhead costs or profits.

(e) Nothing contained herein shall be construed as imposing responsibility or liability upon ABB for obtaining any permits, licenses or approvals from any agency required in connection with the supply, erection or operation of the Equipment.

(f) This Agreement shall be governed by the laws of the State of New York, but excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and excluding New York law with respect to conflicts of law. Purchaser agrees that all causes of action against ABB under this Agreement shall be brought in the State Courts of the State of New York or the U.S. District Court for the Southern District of New York.

(g) If any provision hereof, partly or completely, shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision or portion hereof and these terms shall be construed as if such invalid or unenforceable provision or portion thereof had never existed.

12. OSHA.

ABB warrants that the Equipment will comply with the relevant standards of the Occupational Safety and Health Act of 1970 ("OSHA") and the regulations promulgated thereunder as of the date of the Proposal. Upon prompt written notice from the Purchaser of a breach of this warranty, ABB will replace the affected part or modify it so that it conforms to such standard or regulation. ABB's obligation shall be limited to such replacement or modification. In no event shall ABB be responsible for liability arising out of the violation of any OSHA standards relating to or caused by Purchaser's design, location, operation, or maintenance of the Equipment, its use in association with other equipment of Purchaser, or the alteration of the Equipment by any party other than ABB.

13. Software License.

(a) ABB owns all rights in or has the right to sublicense all of the Software, if any, to be delivered to Purchaser under this Agreement. As part of the sale made hereunder Purchaser hereby obtains a limited license to use the Software, subject to the following: (i) The Software may be used only in conjunction with equipment specified by ABB; (ii) The Software shall be kept strictly confidential; (iii) The Software shall not be copied, reverse engineered, or modified; (iv) The Purchaser's right to use the Software shall terminate immediately when the specified equipment is no longer used by the Purchaser or when otherwise terminated, e.g. for breach, hereunder; and (v) the rights to use the Software are non-exclusive and non-transferable, except with ABB's prior written consent.

(b) Nothing in this Agreement shall be deemed to convey to Purchaser any title to or ownership in the Software or the intellectual property contained therein in whole or in part, nor to designate the Software a "work made for hire" under the Copyright Act, nor to confer upon any person who is not a named party to this Agreement any right or remedy under or by reason of this Agreement. In the event of termination of this License, Purchaser shall immediately cease using the Software and, without retaining any copies, notes or excerpts thereof, return to ABB the Software and all copies thereof and shall remove all machine readable Software from all of Purchaser's storage media.

14. Inventions and Information.

Unless otherwise agreed in writing by ABB and Purchaser, all right, title and interest in any inventions, developments, improvements or modifications of or for Equipment and Services shall remain with ABB. Any design, manufacturing drawings or other information submitted to the Purchaser remains the exclusive property of ABB. Purchaser shall not, without ABB's prior written consent, copy or disclose such information to a third party. Such information shall be used solely for the operation or maintenance of the Equipment and not for any other purpose, including the duplication thereof in whole or in part.

15. Force Majeure.

ABB 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, and the price will be adjusted to compensate ABB for such delay.

16. Cancellation.

Special and made to order Equipment are non-cancelable and non-returnable. Any other order may be cancelled by Purchaser prior to shipment only upon prior written notice and payment of termination charges, including but not limited to, all costs identified to the order incurred prior to the effective date of notice of termination and all expenses incurred by ABB attributable to the termination, plus a fixed sum of ten (10) percent of the final total price to compensate for disruption in scheduling, planned production and other indirect costs.

17. Return of Equipment

Equipment returns are subject to the terms and conditions set forth in the Return Material Policy, which is attached hereto.

18. Termination.

No termination by Purchaser for default shall be effective unless, within fifteen (15) days after receipt by ABB of Purchaser's written notice specifying such default, ABB shall have failed to initiate and pursue with due diligence correction of such specified default.

19. Export Control.

(a) Purchaser represents and warrants that the Equipment and Services provided hereunder and the "direct product" thereof are intended for civil use only and will not be used, directly or indirectly, for the production of chemical or biological weapons or of precursor chemicals for such weapons, or for any direct or indirect nuclear end use. Purchaser agrees not to disclose, use, export or re-export, directly or indirectly, any information provided by ABB or the "direct product" thereof as defined in the Export Control Regulations of the United States Department of Commerce, except in compliance with such Regulations.

(b) If applicable, ABB shall file for a U.S. export license, but only after appropriate documentation for the license application has been provided by Purchaser. Purchaser shall furnish such documentation within a reasonable time after order acceptance. Any delay in obtaining such license shall suspend performance of this Agreement by ABB. If an export license is not granted or, if once granted, is thereafter revoked or modified by the appropriate authorities, this Agreement may be canceled by ABB without liability for damages of any kind resulting from such cancellation. At ABB's request, Purchaser shall provide to ABB a Letter of Assurance and End-User Statement in a form reasonably satisfactory to ABB.

20. Assignment.

Any assignment of this Agreement or of any rights or obligations under the Agreement without prior written consent of ABB shall be void.

21. Nuclear Insurance – Indemnity.

For applications in nuclear projects, the Purchaser and/or its end user customer shall have complete insurance protection against liability and property damage resulting from a nuclear incident to and shall indemnify ABB, its subcontractors, suppliers and vendors against all claims resulting from a nuclear incident.

22. Resale.

If Purchaser resells any of the Equipment, the sale terms shall limit ABB's liability to the buyer to the same extent that ABB's liability to Purchaser is limited hereunder.



Elastimold® Apparatus Project Proposal Terms and Conditions:

Elastimold® Switchgear, Elastimold® Reclosers, Joslyn Hi-Voltage® Var Breaker Master, Joslyn Hi-Voltage® VerSaVac and Joslyn Hi-Voltage® Molded Vacuum Interrupter.

1. Proposal Scope

The scope for a Make-to-Order project shall be solely captured in the configurator Proposal and/or project scope document.

2. Customer Approval of Project Scope

A. Review: Purchaser first reviews the Proposal document.

- i. After Purchaser completes the review of this scope, no changes shall be made unless captured in the configurator project scope document and mutually agreed to by ABB and Purchaser.
- ii. No other oral or written communication shall constitute a project scope change.

B. Approval: Purchaser's valid and accepted purchase order will constitute acceptance of the Proposal and authorization for ABB to proceed with the design per the agreed project scope.

3. Design Engineering

ABB will schedule and proceed with design engineering work upon receipt of new or revised purchase order acknowledgment.

4. Sales Drawing

Upon completion of the engineering design, a sales drawing will be provided to Purchaser for review and approval.

5. Review Period and Changes to the Scope

Purchaser shall have up to seven (7) calendar days to review and return either a signed sales/engineering drawing:

A. With no changes:

ABB will release the project to production, which constitutes Purchaser's authorization for ABB to procure necessary materials for the job. A target ship date will be scheduled or reconfirmed.

B. With changes not captured in the specification:

- i. A change order will result in ABB re-quoting the price and/or lead time if there is an impact to either; and
- ii. A non-refundable engineering change fee of three thousand dollars (\$3,000) will be applied.

C. If additional changes are requested after receiving revised drawings, then:

- i. This will result in ABB re-quoting the price and/or lead time if there is an impact to either; and
- ii. A non-refundable engineering change fee of three thousand dollars (\$3,000) will be applied.

D. If Purchaser takes longer than seven (7) calendar days to review, sign and accept the sales/engineering drawing:

- i. The lead time for the shipping of the materials ordered may be re-quoted.

6. Completion of Design and Release to Operations

A. By returning a signed sales/engineering drawing, Purchaser authorizes ABB, under the provisions of this document to:

- i. Complete the design and create the bill of materials (BOM) and release this to operations; and
- ii. Operations will:
 - (a) Procure materials for the manufacturing of the design; and
 - (b) Schedule a production slot and proceed to manufacturing.

7. Change Orders after the Approval of the Sales/Engineering Drawing

A. Prior to two weeks before the ship date will result in:

- i. An engineering charge of ten percent (10%) of the system price;
- ii. Plus, applicable charges for all costs that have been incurred that will no longer be used for the project; and
- iii. A re-quote of the price and lead time required to make the changes.

B. Within two weeks of the CONFIRMED SHIP DATE:

- i. The design is frozen and no changes will be made.
- ii. If the order is cancelled, Purchaser must pay a twenty five percent (25%) cancellation and restocking charge, plus all material cost associated with this custom engineered design.

C. ABB may, at its expense, make such changes in the Equipment or Services as it deems necessary, in its sole discretion, to conform the Equipment or Services to the applicable specifications. If Purchaser objects to any such changes, ABB shall be relieved of its obligation to conform to the applicable specifications to the extent that conformance may be affected by such objection.

8. General Terms

ALL ABB INC. ELECTRIFICATION PRODUCTS DIVISION GENERAL TERMS AND CONDITIONS OF SALE SHALL APPLY TO THE PURCHASE OF ELASTIMOLD®, CABLE ACCESSORIES AND APPARATUS EQUIPMENT EXCEPT WHERE THEY CONFLICT WITH THE ABOVE TERMS. IN CASE OF CONFLICT BETWEEN THE ABB INC. ELECTRIFICATION PRODUCTS DIVISION GENERAL TERMS AND CONDITIONS OF SALE, THEN THE PROVISIONS OF THESE PROJECT PROPOSAL TERMS AND CONDITIONS SHALL HAVE PRECEDENCE.



ABB Electrification Products Division
RETURN MATERIAL POLICY
Effective 2/18/2019

1. Application of Policy

This Return Material Policy (the "policy"): (i) applies to all Equipment purchased from ABB Installation Products Inc. (formerly Thomas & Betts Corporation and hereinafter "EPIP"), ABB Electrification Products Smart Power ("EPSP") and ABB Electrification Products Smart Buildings ("EPSB") business units (collectively "ABB"); (ii) covers all types of Equipment returns to ABB; and (iii) supersedes all prior ABB return policies. Except as modified by this policy, the ABB Inc. Electrification Products Division General Terms and Conditions of Sale and the Signature Service Program terms (as applicable) will control the relationship between ABB and the Purchaser. However, existing contracts between ABB and the Purchaser, to the extent they conflict with this policy, will be honored for their respective contractual terms until expiration and/or amendment.

2. General Policy For All Returns

- a. ABB will only accept Equipment returns with an approved Returned Material Authorization ("RMA") form.
- b. Equipment returns requests will only be accepted for the following reasons as set forth in this policy:
 - i. **Stock Rotation Return** (periodic inventory adjustment);
 - ii. **Administrative Return** (shipping and order entry errors by ABB); or
 - iii. **Warranty Return** (defective material).
- c. The reason for return should be clearly indicated on the RMA form.
- d. Requests for returns may be submitted through the sales organization or directly to the appropriate customer service representative ("CSR"). Request for returns may also be submitted through T&B Access (or its equivalent), as it becomes available.
- e. The CSR will validate the Equipment on the RMA prior to approval. Final return approvals are authorized by ABB management.
- f. All returns are subject to inspection by ABB and ABB shall determine if repackaging will be required. A 35% repackaging fee will be applied when applicable.
- g. All returns must conform to current catalog description, be in saleable condition and have been purchased directly from ABB or an authorized distributor.
- h. Custom made, specially designed or made-to-order Equipment is not returnable.
- i. Upon approval of a valid return, ABB will provide the following information:
 - i. RMA Return Number (to be referenced on all cartons or pallets being returned as well as on any documentation);
 - ii. Disposition for each requested item;
 - iii. Estimated credit for the return request based on information provided, subject to ABB inspection;
 - iv. Address to applicable ABB returns location;
 - v. Responsibility of freight costs for the return;
 - vi. Required carrier where ABB accepts responsibility for freight; and
 - vii. Deadline for receipt of the material at designated ABB facility.
- j. No credit will be given for items returned which are not included on an approved RMA or which exceed approved quantities. Unauthorized returns for Equipment will be returned to Purchaser at the Purchaser's expense or scrapped with the Purchaser's permission.
- k. Applicable prompt payment/cash discounts will be deducted from the credit memo for all RMA returns.
- l. A credit memo will be issued after receipt of a return made in conformance with this policy. No deduction for returned material is allowed until a credit memo is issued.
- m. All returns will be credited at the lowest price paid in the last 12 months, unless a purchase order number or invoice is referenced for the Equipment.
- n. If a Purchaser has outstanding charges at the time of the RMA request that are related to prior unpaid repackaging or unpaid disallowed deductions for returns fees, then ABB reserves the right to put the Purchaser on "RMA Hold" until the



charges can be resolved. The "RMA Hold" will allow Purchaser to submit a new RMA online but the RMA cannot be processed and approved by ABB until the outstanding fees have been resolved.

3. Stock Returns

- a. All stock returns must be consistent with this policy and each of the conditions below:
 - i. A Purchaser is allowed one (1) return per calendar year, which shall not exceed five (5%) percent of the prior year's shipments;
 - ii. An offsetting stock order equal in value to the return must be placed by prior to ABB's issuance of a credit memo for a valid return;
 - iii. All items must be in full, original, unopened inner/master cartons, of current catalog design and in saleable condition; and
 - iv. All stock returns must be received by November 30th of the current year and any stock returns shall be allowed only for Equipment that was purchased within the preceding twelve (12) months from the invoice date.
- b. Any Equipment designated as custom made, specially designed, obsolete, non-returnable or made-to-order (either published or unpublished) is not returnable.
- c. A thirty-five (35%) percent repackaging charge will be incurred when Equipment is returned in less than carton quantities or requires repackaging. Additional repackaging charges may be incurred in other situations.
- d. All stock returns will be credited at the lowest price paid in the last twelve (12) months, unless a purchase order number or invoice is referenced for the Equipment.

4. Administrative Returns

- a. Equipment returns are allowed for administrative errors caused by ABB as indicated below.
- b. Any Equipment which has been in stock more than twelve (12) months from the date of the original invoice is not acceptable for an administrative return.
- c. Return requests for shipping errors (wrong quantity, wrong product, late or early shipments caused by ABB) **must be reported within ten (10) days** of the shipment being received by Purchaser.
- d. All Equipment must be in full, original, unopened, master cartons of current catalog design and in saleable condition as originally shipped by ABB.
- e. Claims for damage after delivery shall be made directly by Purchaser with the common carrier.
- f. All other claims for administrative errors caused by ABB (including claims for pricing errors and special price agreement claims) must be made within one hundred eighty (180) days of the date of invoice or they will be disallowed.
- g. **Returns for administrative errors caused by the Purchaser are NOT ALLOWED.** Purchaser's order errors may only be treated as stock returns if the Equipment is eligible. If applicable, a distributor must add this Equipment to an annual stock return.

5. Warranty Returns

- a. All Equipment returned for repair under warranty will be repaired or replaced under the terms specified by the applicable warranty set forth in the ABB Inc. Electrification Products Division General Terms and Conditions of Sale.
- b. All warranty returns will be credited at the lowest price paid in the last 12 months, unless a purchase order number or invoice is referenced for the Equipment.



EPSP - Service: Pricing Policy

February 18, 2019

1. Field Services

ABB EP Smart Power Service (hereinafter "ABB EPSP Service"), which acts through ABB Inc.'s Electrification Products Division, provides a wide range of engineering and technical support services designed to assist in the selection, operation and maintenance of our Equipment. Services include application, coordination, power quality and system studies, supervision of equipment installation or maintenance activity, start-up, training, repair, commissioning, equipment technical or integration services.

2. Qualifications

ABB EPSP Service personnel are factory certified and have received specific training in the design, assembly, installation and test of our Equipment. All services provided by ABB EPSP Service include full factory warranty for labor and repair parts indicated in the statement of work provided.

3. Repair Parts

Repair parts provided as part of ABB EPSP Service are guaranteed to be factory authorized materials and to be either new or factory refurbished materials, where warranted.

4. Training

Training is available on-site or at the appropriate ABB training facility. In field training is customized to the specific need of each customer and may include engineering application, operation and maintenance of ABB Equipment. Demonstration equipment is available for site training when customer's equipment is otherwise unavailable for training use.

5. Contracted Services

ABB EPSP Service does not certify independent repair companies for maintenance and repair of its equipment. Services provided by a 3rd party, unless contracted through ABB EPSP Service, are not warranted through ABB.

6. ABB EPSP Service Rates

Continental US, Mexico and Canada (USD)			
Period	Daily	Hourly	O/T
M-F	\$2,200	\$250	\$300
Sat	\$2,500	\$300	\$400
Sun/Holiday	\$3,000	\$350	\$500
International/Off-Shore Service Rates (USD)			
All	4,000.00	n/a	\$600

7. Payment Terms

Payment terms for ABB EPSP Services are Net 30 days from invoice

8. Daily Rate

A daily rate, when specified, applies to all time worked or traveled not to exceed ten (10) hours per day. Work hours are consecutive with allowance for meal(s). Partial days are invoiced as a whole day.

9. Overtime

Overtime rate applies to all hours worked in excess of eight (8) hours in one day or ten (10) hours where daily rate applies. **ABB policy includes a maximum workday of twelve (12) hours in one day (24 hours) including travel time. Work day may be extended to a maximum of sixteen (16) hours under special circumstances and only with approval of the Service Manager.**

10. Sunday and Holidays

Special Sunday and holiday rates apply to all hours worked or traveled on Sunday or ABB recognized holidays.

11. International Service

Billing for international services is at the daily rate specified. Partial days worked or traveled are invoiced as whole days. Hours worked in excess of ten (10) consecutive hours are billed at the international O/T rate.

12. Travel and Living Expenses

Charges for travel and reasonable living expenses such as lodging, meals, and ancillary services such as laundry, parking, etc. will be invoiced at cost plus twenty percent (20%). Travel expenses quoted represent a good faith estimate at time of quote and assume at least two week advance travel notice. Actual expense may differ at time of service.



13. Per Diem

Where offered and approved by the customer, a flat rate per diem (per calendar day or part thereof) will be charged in lieu of actual expenses accrued. Per Diem rate covers local lodging and reasonable living expenses and specifically excludes travel expenses between employee's home base and job site.

14. Travel Time

Travel time to and from the service employee's home base and customer site will be invoiced at the standard applicable hourly rate regardless of time of travel (no O/T travel).

15. Minimum Labor Billing

A minimum billing of 4 labor hours per day is required, regardless of time actually spent on site. A minimum billing of 1 day labor is required where the daily rate is applicable.

16. Standby Time

Non-travel delays or standby time, not due to any fault of ABB, are billable at the applicable service rate.

17. Work Preparation and Close out

Services performed in preparation or close out of customer's project will be billed as accrued. Such work may include pre-fabrication, planning or engineered services, obtaining permits or report writing.

18. Customer Required Training

Customer required training attended to meet site specific safety, security or access requirements are billable at the applicable service rate.

19. Other Charges

Additional charges may be incurred under the following guidelines:

1. **Material Purchased:** Any material purchased locally and not included with the original Proposal will be invoiced at a rate not to exceed cost plus 30%.
2. **Rental or Contracted Services:** Any rental or 3rd party services contracted at the work site and not included with the original Proposal will be invoiced at a rate not to exceed cost plus 30%.
3. **Repair Parts:** ABB repair parts required but not included with original Proposal will be invoiced at list price.
4. **Miscellaneous:** Items may include, but are not limited to, any permits, fees, special duties or taxes required to access site or complete work and are invoiced at a rate not to exceed cost plus 30%.

20. Warranty

All services are warranted to be performed in a professional manner. Defects in craftsmanship or material quality are warranted per ABB standard warranty terms and conditions per Article 8 of these ABB Inc. Electrification Products Division General Terms & Conditions of Sale.

21. Delivery

Delivery of material will be in accordance with these ABB Inc. Electrification Products Division General Terms & Conditions of Sale. Delivery of labor services will be considered complete upon customer acceptance of services rendered and will be invoiced at the time of acceptance.

22. Freight

Freight terms for any Equipment shall be delivered per Article 5 of these ABB Inc. Electrification Products Division General Terms & Conditions of Sale.

23. General Terms

ALL ABB INC. ELECTRIFICATION PRODUCTS DIVISION GENERAL TERMS AND CONDITIONS OF SALE SHALL APPLY TO THE PURCHASE OF ABB EPSP SERVICES EXCEPT WHERE THEY CONFLICT WITH THE ABOVE TERMS. IN CASE OF CONFLICT BETWEEN THE ABB INC. ELECTRIFICATION PRODUCTS DIVISION GENERAL TERMS AND CONDITIONS OF SALE, THEN THE PROVISIONS OF THIS EPSP SERVICE PRICING POLICY DOCUMENT SHALL HAVE PRECEDENCE.