

HUNTERDON TRANSFORMER TERMS AND CONDITIONS

<p>1. This Agreement is expressly conditional on Buyer's agreement to the terms and conditions contained herein. Seller hereby objects to any terms that are different or additional. Buyer's acceptance of the goods or services shall manifest Buyer's assent to Seller's terms and conditions.</p> <p>2. PRICE POLICY – Prices are firm for orders meeting Seller's normal shipping schedules. If shipments are held or postponed for any reason other than Seller's fault, and a price increase becomes effective during the period of such hold or postponement, the increase will apply to all shipments which are held or postponed thirty (30) days or more from the effective date of the increase.</p> <p>3. TAXES – Prices do not include, unless specified and Buyer is responsible for, all taxes (except taxes on Seller's net U.S.A. income), tariffs and any similar charges imposed upon or in connection with products, or upon any document relating to the sale of products.</p> <p>4. PAYMENTS – Seller may reject any order from Buyer for any reason including Buyer's credit worthiness. Seller may require payment to be made through an irrevocable letter of credit established by Buyer at its expense. Seller may revoke its acceptance of any order without liability to Buyer if credit approval is denied prior to shipment or a letter of credit required by Seller is not received at least 30 days prior to shipment.</p> <p>5. TITLE AND RISK OF LOSS – All products shall remain the personal property of Seller until fully paid for in cash, and Buyer agrees to perform all acts which may be necessary to perfect and assure the retention of title to such property by Seller. Risk of loss to products, or any part of same, shall pass to the Buyer upon delivery to Carrier at Seller's plant, or such other point of shipment as may be specified in Seller's acknowledgement. Buyer agrees to provide insurance, beginning at the point of shipment, for loss or damage to the products.</p> <p>6. CLAIMS – Buyer agrees to check material against shipping papers immediately upon unloading at destination. Claims for shortage must be made to Seller immediately and confirmed in writing within seven (7) days. Any claims not so made are waived by Buyer. Claims for loss or damage in transit must be made by Buyer to the carrier, although Seller may assist Buyer with such claims, any and all adjustments to be made must be between the Buyer and the carrier. Seller accepts no responsibility for loss or damage to product in transit.</p> <p>7. DELIVERY – FOB – P.S. – Frt/PPA or Coll. Products are delivered Free on Board, Point of Shipment, Freight is Prepaid and added to the invoice, or Collect at Seller's option. Any quotation given by Seller is based upon freight charges now in effect. Buyer will be invoiced at the freight charges prevailing at the date of shipment.</p> <p>8. FORCE MAJEURE – Seller shall not be liable for any delay in delivery or failure to deliver due to fire, explosion, strike or other difference with workmen, shortage of utility, acts of God, flood, sabotage, facility, material or labor, delays in transportation, accident, war, civil commotion, compliance with or other action taken to carry out the intent or purpose of any law or regulation, or national defense requirements, or any other cause beyond Seller's reasonable control, whether or not similar to the above. In the event of shortage, Seller shall have the right to apportion its production among its customers in such manner as it may consider to be equitable.</p> <p>9. MATERIAL FURNISHED BY BUYER – All material furnished by Buyer must be shipped prepaid to Seller's plant and must be suitable for the product to be manufactured. If Seller discovers defects in material furnished by Buyer, Seller will notify Buyer and charge for all expenses incurred as a result of the defect. Should Seller spoil any material furnished by Buyer, Seller will assume only the loss of Seller's work, and replacement of the material is for Buyer's account. Seller assumes no liability for loss of Buyer's material by fire, storm, flood, strike or any other causes beyond Seller's control.</p> <p>10. CANCELLATION OR ALTERATION – Subject to any provisions of Buyer's local law to the contrary, once production has commenced, Buyer cannot alter or cancel any order without Seller's written consent and for any order altered or canceled with Seller's consent, Buyer must pay for all expenses incurred and work executed up to the time Seller has consented to such alteration or cancellation. Any order delayed or deferred by Buyer will be subject to price escalation, cost of storage, increased cost of production, and any other expenses caused by the delay. Material on such orders will be stored at Buyer's risk. Seller reserves the right to invoice for work done on any delayed or deferred order.</p> <p>11. SEPARATE SALES – Each delivery shall constitute a separate sale with the same effect as though made under a contract covering only the amount thereof. If Buyer is in default with respect to any of the terms or conditions of this or any contract with Seller, Seller may, at Seller's option defer further shipments hereunder until such defaults are remedied or, without prejudice to any other legal remedy, Seller may decline performance hereunder. If shipments are so deferred, the contract period, at Seller's option may be extended by a period equal to that during which deliveries are deferred.</p> <p>12. PATENT OR TRADEMARK INFRINGEMENT – If the goods sold hereunder are to be prepared for manufacture according to Buyer's specifications, Buyer shall indemnify Seller against any claims or liability for patent, trademark, or copyright infringement on account of preparation, manufacture and/or sale.</p> <p>13. RETURNING PRODUCT – Authorization and shipping instructions for the return of any products must be obtained by the Buyer from Seller before returning the product. Product must be returned with complete identification in accordance with Seller's instructions, or it will not be accepted. Where a Buyer requests authorization to return product for reasons of its own, and Seller is agreeable to same, Buyer will be charged for placing the goods in saleable condition (restocking charge) and for any outgoing and incoming transportation paid by Seller. In no event will Seller be responsible for any product returned without prior authorization and identification.</p> <p>14. WARRANTY – All products manufactured by Seller, except Variable Reactance Transformers are warranted for eighteen (18) months from the date of shipment, or twelve (12) months after start-up,</p>	<p>whichever date occurs first. Variable Reactance Transformers (VRTs) are warranted for five (5) years from the date of shipment. For items and components incorporated in the products and not manufactured by Seller, the only warranty extended is that of the manufacturer. Items and components not manufactured and not warranted by Seller include, but are not limited to, tap switches, controllers, circuit breakers, fans and meters.</p> <p>15. LIMITATION OF LIABILITY – Seller makes no warrant or representation, express or implied, by operation of law or otherwise, as to the merchantability or fitness for a particular purpose of any of the goods or services sold hereunder. Buyer acknowledges that Buyer alone has determined that the goods and services will meet the requirements of their intended use. The Buyer warrants that the products will be used properly in accordance with Seller's warning and instructions and indemnifies Seller for any breach of the warranty. Should Seller breach its warranty, Buyer's exclusive remedy and Seller's only obligation shall be, at Seller's option, the replacement or repair by Seller of such non-conforming goods or services, F.O.B. Seller's facility, or the refund of that portion of the original purchase price paid for such non-conforming goods or services, upon their return to Seller. In no event will Seller be liable for incidental or consequential damages, including loss of use or loss of profit, or any damages other than repair, replacement or refund of the purchase price paid for such defective goods or services at Seller's option, whether arising out of express warranty or any other term of this agreement. Seller shall not be liable for any failure of devices or equipment into which goods may be installed, or failure of surrounding or connected devices or equipment. These limitations shall apply whether the claim is pleaded in contract or in tort, including negligence or strict liability in tort. Every claim from any cause shall be deemed waived unless made in writing to Seller within 30 days of the receipt of the goods or services by Buyer, provided, however, that claims for shortage must be made within seven (7) days of receipt. No legal proceeding shall be brought for any breach of this contract more than one year after the accrual of the cause of actions therefore.</p> <p>16. RESALE OF GOODS – Seller's warranties are made only to Buyer. Seller makes no warranties to Buyer's customer or any other person. In the event of the resale or transfer of any of the goods sold hereunder, in whatever form, Buyer shall have no authority to make, nor will Buyer make, any warranty or representation to Buyer's customer or any other person on behalf of Seller.</p> <p>17. GOVERNMENTAL AUTHORIZATIONS – If the destination of any shipment made by Seller hereunder is outside of the United States, Seller will be responsible for the application, in its own name, for any required U.S.A. export license. Buyer will be responsible for timely obtaining and maintaining any required import license, exchange permit or any other governments authorization required for the import of the products, provision of services by Buyer and the remittance of payments to Buyer. Seller and Buyer will assist each other when such help is reasonably possible. Seller will not be liable if authorization of any government is delayed, revoked, restricted or not renewed, and Buyer will not be relieved thereby of its obligations to pay Seller for the products or any other charges.</p> <p>18. EXPORT CONTROLS – Buyer warrants that it is and will remain in compliance with all U.S. export and reexport requirements, including, but not limited to, the Export Administration Act, The Arms Export Control Act, and any regulations, orders and licenses issued thereunder (collectively the "Export Laws"). Buyer warrants that it has not been, and is not currently, debarred or suspended, prohibited or impaired from exporting, reexporting, receiving, purchasing, procuring or otherwise obtaining any goods, commodities, or technical data by any agency of the government of the United States. Buyer will not reexport, sell, transfer or deliver, either directly or indirectly, any goods, commodities or technical data, or the direct product thereof to any country, person or entity where such would cause Seller or Buyer to be in violation of applicable Export Laws.</p> <p>19. AUTHORITY OF AGENTS – None of Seller's agents, employees, representatives, or sales people has any authority whatsoever to make or bind Seller to any warranty or representations concerning the goods sold hereunder, or to modify the contractual terms, except an officer of the Seller's company or someone delegated by an officer of that company.</p> <p>20. WITNESS TESTS & TEST DATA APPROVAL – Witness tests specified by purchase order will normally be held at Hunterdon Transformer before the scheduled ship date. If the Buyer is not available to attend the Witness Test on the scheduled date the Buyer waives the right to Witness Test and authorizes the Seller to ship product. If Buyer approval of Test Data is required before shipment by purchase order or specification, Buyer agrees to complete test data review within one week or waives test data approval and authorizes shipment.</p> <p>21. DELIVERY DATES AND SHIP TO ADDRESS – If any part of the product(s) cannot be delivered when ready due to Buyer's refusal to accept delivery, Buyer agrees to procure suitable storage facilities for the product(s). In the event Buyer fails to do so, Hunterdon Transformer shall place such product(s) in storage. In such event, Hunterdon Transformer's delivery obligations shall be fulfilled and title and risk of loss or damage shall thereupon pass to Buyer, any amounts otherwise payable to Hunterdon Transformer on Delivery shall be payable upon presentation of Hunterdon Transformer's invoices, and all expenses incurred by Hunterdon Transformer for placement in storage, handling, storage, inspection, preservation, and insurance, shall be payable by Buyer upon submission of Hunterdon Transformer's invoice(s).</p> <p>22. APPLICABLE LAW – All disputes arising in connection with this Agreement will be construed and governed under the laws of the State of New Jersey without regard to its conflict of laws provisions and excluding the United Nations Convention for the International Sales of Goods. All disputes will be resolved in a court of competent jurisdiction in Warren County, New Jersey and Buyer hereby irrevocably consents to the jurisdiction and exclusive venue of the state and federal courts in Warren County, New Jersey, and agrees to appear in any action upon written notice thereof sent by certified mail, express overnight delivery or telecopy to the address of Buyer shown in the front hereof.</p>
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