



Summit Electric Sales Co., Inc.  
1321 North 30<sup>th</sup> Street  
Renton, WA 98056  
www.sumsales.com

**All ABB orders placed with Summit Electric should be made out to the following address;**

ABB Inc.  
12040 Regency Parkway  
Cary, North Carolina 27518

**Additionally, all orders should be sent to Summit Electric for entry into the ABB system.**

ABB Inc. has consolidated all customer receipts for US Operations into a single lockbox, wire account, and physical delivery location. Depending upon the method you pay ABB, please update your Accounts Payable Records for all ABB business accounts to these new addresses:

**Mail Payment To:**

ABB Inc.  
PO Box 88868  
Chicago IL 60695-1868

**Courier (Physical) Deliveries**

JP Morgan  
Attn: ABB Inc. Box 88868  
Chicago, IL 60603

**ACH/EFT Transfer To:**

JP Morgan Chase, NY  
ABA Number: 021000021  
Account Name: ABB Inc.  
Account No. : 323884326  
(Foreign exchange payments, add Swift Code CHASUS33)

Thank you in advance for helping us through this transition period.

Regards,

Paul Miller  
President  
Summit Electric Sales Company  
www.sumsales.com

ABB High Voltage  
100 Distribution Circle  
Mount Pleasant, Pennsylvania, United States

Dead Tank Breakers  
For  
City and Borough of Sitka Electric Dept - 72PM40-12B

SUBMITTED BY:  
ABB Inc.  
100 Distribution Circle  
Mount Pleasant, PA 15666

Kelly Naugle  
724-696-1528  
kelly.naugle@us.abb.com

18 Jun 2012

ABB Negotiation Number: 12Q1631788 Rev 1  
Equipment: Dead Tank Breaker

Dear Valued Customer:

Attached is a quotation from ABB Inc., per your request.

The opportunity to provide these items to you is greatly appreciated, and this offering is intended to meet your highest expectations.

We would like to highlight some of the value and features that these ABB products and services bring to you.

- The type PM is the most longstanding brand in the industry with over 25,000 units in service today
- Design features that minimize SF6 emissions, reduce maintenance, and increase safety
- ABB produces the type PM circuit breakers in ISO 9001 and 140001 certified facilities
- The support of the largest OEM service team in the industry.

We thank you for the opportunity to provide you with the most popular line of HV dead-tank circuit breakers in the world, the type PM. As part of our offering, ABB has proposed our popular Oasis control system which is designed to meet or exceed most industry specified control features used on our high voltage breakers. The Oasis platform has been widely accepted by many users across the US. As a result, we are now able to insure immediate release of pre-approved engineering drawing packages and therefore shorter lead-times.

ABB has a long-standing reputation for providing the customer with custom and standard High Voltage Products that are desired for the customers' unique application. Rather than forcing the customer to accept a standard configuration, ABB has invested in systems and processes to allow us to provide custom configurations to the customer with short cycle times at a high degree of accuracy and quality. ABB Inc. stands ready to work with you to supplement this product offering with technical application experts, training and support services intended to reduce your total cost of ownership.

ABB also offers turnkey removal and installation services, OEM commissioning, training programs and maintenance agreements for new high voltage equipment. Please call your local ABB representative for more information including the availability of extended warranty programs.

We look forward to your consideration of this offering, and will be pleased to answer any questions you may have.

Kelly Naugle  
ABB Inc.  
100 Distribution Circle  
Mount Pleasant, PA 15666

## Scope of Supply and Prices

Total Bid Package Pricing Schedule	
<b>Item 10</b>	
	72PM40-12B
Unit Price	\$37 682
Total Price for (2) units	\$75 364
Lead Time	23 - 25 weeks ARO
Factory Location: 9AAE300180: US: Mount Pleasant	
Product Code: 9AAC30400525: High Voltage Products and Systems /Circuit Breakers /Dead Tank Circuit Breakers /72PM	
<b>Item 20 – Oasis Package</b>	
	72PM40-12B
Unit Price	\$35 436
Total Price for (2) units	\$70 872
Lead Time	14 - 16 weeks ARO
Factory Location: 9AAE300180: US: Mount Pleasant	
Product Code: 9AAC30400525: High Voltage Products and Systems /Circuit Breakers /Dead Tank Circuit Breakers /72PM	

<b>Total Bid Package Item 10</b>	<b>\$75,364</b>
<b>Total Bid Package Item 20</b>	<b>\$70,872</b>

**\*stainless steel cabinets and hardware can be added for an additional \$2,563 per cabinet.**

A **Circuit Breaker Sentinel (CBS)** can be supplied in addition to any circuit breaker. The Circuit Breaker Sentinel™ is a microprocessor-based control device, which enables real-time condition monitoring for circuit breakers. See attached descriptive bulletin.

Circuit Breaker Sentinel (CBS).....**\$12,500**

A **Circuit Breaker Sentinel Lite (CBS-LT)** can be supplied in addition to any circuit breaker. The Circuit Breaker Sentinel Lite™ is a microprocessor-based control device, which enables real-time condition monitoring for circuit breakers. This unit excludes interrupter wear, timing and velocity data. See attached descriptive bulletin.

Circuit Breaker Sentinel Lite (CBS-LT).....**\$10,500**

A **Circuit Breaker Sentinel F6 (CBS-F6)** can be supplied in addition to any circuit breaker. The Circuit Breaker Sentinel F6™ is a microprocessor-based control device, which enables real-time condition monitoring for circuit breakers. This unit excludes all functions except SF6 pressure and temperature data. See attached descriptive bulletin.

Circuit Breaker Sentinel F6 (CBS-F6).....**\$3,500**

## **Circuit Breaker Sentinel (CBS)<sup>TM</sup>**

The Circuit Breaker Sentinel (CBS) is a diagnostic and monitoring system for SF<sub>6</sub>, single-pressure power circuit breakers rated 38 kV and above. The Circuit Breaker Sentinel monitors (1) interrupter wear, (2) integrity of the SF<sub>6</sub> gas system, (3) the circuit breaker mechanical system, (4) the electrical control system and auxiliaries. It consists of a modular microprocessor unit and sensors.

The unit is housed in a NEMA-1 enclosure, which is installed inside the circuit breaker control cabinet or in an additional enclosure mounted on the side of the control cabinet.

The Circuit Breaker Sentinel contains several dedicated electronic board assemblies. The Circuit Breaker Sentinel is designed and tested to operate under a temperatures range, from -40°F to 160°F (-40°C to +70°C), and to withstand electro-magnetic interference (EMI) conditions in a substation environment.

It has been tested according to IEC 61000-4 standards for EMI immunity. The CBS has indicator lights that provide first information about alarms. Its sensors detect parameters necessary to determine the condition of the circuit breaker, such as gas density, temperature, current, voltage and position.

Its electronic board assemblies utilize microprocessors which continuously collect data from these sensors, perform calculations, store data in memory and compare data against established limits or set-points for each parameter.

## Technical Data Sheet

### Item 10

ABB Product ID:	72PM40-12B
CT Frequency	60 Hz
Trip Coil Circuit	Primary and Secondary
Close Coil Circuit	Primary Only
Maximum	72.5 (kV)
Continuous Current	1200 (A)
Interrupting Current	40 (kA)
BIL	350 (kV)
Interrupting Time	3 Cycles
Mechanism Type	BLK 222
Bushing Material	Composite
Bushing Creep	72 in.
Motor Voltage	125 VDC / 120 VAC
Control Voltage	125 VDC
Cabinet Material	Standard
Exterior Paint Color	ANSI 70 Gray
Interior Paint Color	ANSI 70 Gray
Duty Cycle	0-0.3Sec-CO-3min-CO
Energy Storage	Spring - Spring
SF <sub>6</sub> GAS	ABB TO SUPPLY

### Item 20 - Oasis Package

ABB Product ID:	72PM40-12B
CT Frequency	60 Hz
Trip Coil Circuit	Primary and Secondary
Close Coil Circuit	Primary Only
Maximum	72.5 (kV)
Continuous Current	1200 (A)
Interrupting Current	40 (kA)
BIL	350 (kV)
Interrupting Time	3 Cycles
Mechanism Type	BLK 22
Bushing Material	Composite
Bushing Creep	72 in.
Motor Voltage	125 VDC / 120 VAC
Control Voltage	125 VDC
Cabinet Material	Standard
Exterior Paint Color	ANSI 70 Gray
Interior Paint Color	ANSI 70 Gray
Duty Cycle	0-0.3Sec-CO-3min-CO
Energy Storage	Spring - Spring
SF <sub>6</sub> GAS	ABB TO SUPPLY

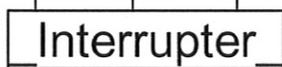
## Item 10

ABB Product ID: 72PM40-12B



E E E

X Relaying 1200:5 C800



E E E

X Relaying 1200:5 C800



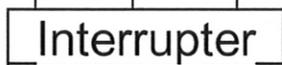
## Item 20 – Oasis Package

ABB Product ID: 72PM40-12B



E E E

X Relaying 1200:5 C800



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X Relaying 1200:5 C800



## Comments and Clarifications

## General

- ❖ This offering is made on the basis of ABB Inc. General Terms and Conditions of Sale, which is enclosed for review. We stand open to negotiate any of the items therein in an effort to reach a mutually acceptable set of terms and conditions applicable to this potential contract. (see below).
- ❖ Freight terms are CIP Destination prepaid and allowed.
- ❖ ABB Inc offers a 0.5% annual leak rate
- ❖ (6) NEMA 4 hole terminal pads will be supplied with each breaker.
- ❖ This quote reflects the ABB power circuit breaker 72.5PM40-12B pedestal design.

## Spec

- ❖ III.E The quoted breakers have a rated interrupting time of 3 cycles at 40kA.
- ❖ IV.A.4 A miniature test switch disconnect and circuit breaker will be provided.
- ❖ IV.B.2 A miniature test switch disconnect and circuit breaker will be provided.
- ❖ IV.F.5 GFI receptacle is rated 120VAC, 20 A.
- ❖ VI.C Motor charging time is 15 seconds.
- ❖ VIII.A The quoted breakers use composite bushings.
- ❖ IX.D A standard set of general maintenance tools are provided with the breakers.
- ❖ IX. 3 SF6 gas filling apparatus is provided with the breakers.
- ❖ Provisions for a travel recorder are provided
- ❖ XII Proposal Data Required

### A. Coil Ratings

- |                             |     |
|-----------------------------|-----|
| 1. Trip coil amperes, each. | 2.4 |
| 2. Close coil amperes       | 2.4 |

### B. Power Requirements

- |                      |      |
|----------------------|------|
| 1. Motor load - H.P. | 18 A |
|----------------------|------|

### C. Physical Characteristics

- |                              |                      |
|------------------------------|----------------------|
| 1. Total weight of breaker   | 4,300 lbs.           |
| 2. Overall dimensions        | See attached outline |
| 3. Pounds of SF6 gas.        | 22                   |
| 4. Bushing terminal details. | See attached outline |

### D. Rating of Circuit Breaker Including:

- |  |         |
|--|---------|
| 1. Max. symmetrical interrupting capability - amperes (RMS).   | 40,000  |
| 2. Three second short time current capability - amperes (RMS). | 40,000  |
| 3. Closing and latching capability - amperes (RMS).            | 104,000 |
| 4. Rated closing time - cycles.                                | 3       |
| 5. Voltage range factor K.                                     | 1       |
| 6. Number of stored CO operations.                             | 1       |

## ***Oasis – Item 20 – General Comments***

- ❖ Quoted breakers are designed in the U.S.A., manufactured and tested in Mexico.
- ❖ Quoted breakers are designed to the Oasis Control Package. Pre-approved wiring diagram is attached for review.
- ❖ Quoted breaker is designed with the US-Design Control Cabinet (page 2 of outline drawing).
- ❖ Construction drawings will be sent 6 weeks ARO, approval drawings are not provided.
- ❖ ABB Inc offers a 5 year warranty

## General Terms and Conditions

### PRICES

Prices are firm for shipment quoted, and do not include federal, state, or local taxes of any kind.

### PAYMENT

Net payment is due within 30 days after date of invoice.

### VALIDITY

Bid is valid for acceptance for a period of 30 days following bid opening.

### SHIPMENT/DRAWINGS

Based on receipt of an order within the quoted validity period, we can ship the equipment based on the lead times listed above, after receipt of a complete and valid purchase order or contract. Each breaker will be shipped with an instruction manual, field assembly drawing, outline drawing, wiring diagram, and wiring connection drawing, located in the documentation storage pocket inside the control cabinet.

Drawings for approval, if required, will be submitted electronically via e-mail within 8 weeks after receipt of a written and valid purchase order. Drawings for approval include a breaker outline drawing, wiring diagrams, connection diagrams, CT performance curves, nameplate drawings, and bushing outline drawing. Instruction manuals are fixed documents and are not submitted for approval. The quoted breaker shipment is contingent upon the customer returning approval drawings within 2 weeks after submittal. Delays in the return of approval drawings that cause a delayed final release to production will result in rescheduling of the circuit breaker shipment to the next available production slot, which may significantly exceed the time of drawing delay.

Final drawings as well as production test reports will also be submitted via e-mail in electronic format within 2 weeks after shipment of the circuit breakers.

### WARRANTY

Standard warranty period is the earlier of 12 months from energization but not to exceed 18 months from shipment. Further clarification regarding warranty coverage is included in the attached document, ABB Inc. General Terms and Conditions of Sale.

### FREIGHT/DELIVERY TERMS

Freight prepaid and allowed (CIP per INCOTerms 2010) with the destination as defined in the bid. Freight is prepaid and allowed to first truck unload point. Title transfers from ABB to Customer when the product is loaded on the truck at the factory and Risk of Loss is covered by ABB to the defined delivery point. Freight prepaid and allowed includes only the trucking expense and does not include offloading equipment, cranes, rail, ship or any other carriage. Re-consignment or redirection of shipment will incur a \$725 handling fee and additional freight charges will apply. All prices are contingent upon

gaining valid shipping clearances at the time of shipment. If clearance is not available due to highway construction, changes in state regulations, changes in bridge limitations or other items beyond our control, ABB will not be responsible for any additional shipping or handling charges. Due to the volatility in the price of fuel a surcharge may apply at time of shipment.

## **STORAGE AND TITLE**

ABB allows 5 days from date of shipment from factory for Customer to accept delivery and confirm shipment location. In the event the Purchaser cannot accept delivery when the Seller is ready to ship, in accordance with the acknowledged shipment date, outside storage will be necessary. Storage charges are as follows:

<b>Size</b>	<b>Charge</b>
Breakers 250kV and less	\$425 / Day
Breakers above 250kV	\$795 / Day

A \$950 offloading and handling fee will apply to each breaker that requires storage.

If storage includes provisioning the breakers with energized heaters, a \$1750 per breaker fee will apply to cover labor, materials, and electricity. Upon storage the EXW point will pass and the Purchaser will take title to the Product.

## **LIMITATION OF LIABILITY**

Manufacturer's total, aggregate liability for any claims made or damages arising out of the performance of this contract shall not exceed the contract price. Further provided that in no event shall the manufacturer be liable for any incidental or consequential damages whatsoever, including but not limited to loss of use of product or work, loss of profits, capital or revenue.

## **SF6 GAS**

Quoted prices include SF6 gas to be furnished in returnable cylinders.

## **WITNESS TESTING**

Customers are welcome to visit our assembly facilities to witness ANSI Standard production tests. Please note that production test dates, in order to assure smooth production flow for all customer's products, are set at the time of product scheduling. Should a customer elect to witness production testing, notification is required 4 weeks prior to the scheduled test date to afford sufficient time to coordinate the visit with our test laboratory.

## **CONDITIONS**

Except as otherwise noted herein, the attached ABB Inc. General Terms and Conditions of Sale shall apply to this quotation and subsequent purchase order or contract.

## ABB INC. GENERAL TERMS AND CONDITIONS OF SALE

1. General. The terms and conditions contained herein, together with any additional or different terms contained in ABB's Proposal, if any, submitted to Purchaser (which Proposal shall control over any conflicting terms), constitute the entire agreement (the "Agreement") between the parties with respect to the order and supersede all prior communications and agreements regarding the order. 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 these terms and conditions, payment for or acceptance of any performance by ABB being acceptance. These terms and conditions may not be changed or superseded by any different or additional terms and conditions proposed by Purchaser to which terms ABB hereby objects. Unless the context otherwise requires, the term "Equipment" as used herein means all of the equipment, parts, accessories sold, and all software and software documentation, if any, licensed to Purchaser by ABB ("Software") under the order. 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. As used herein, the term "Purchaser" shall include the initial end user of the Equipment and/or services; provided, however, that Paragraph 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) Unless otherwise stated herein, 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.
- (c) 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.
- (d) 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.

### 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 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 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.

### 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 F.O.B. point of shipment. Equipment shipped from outside the continental United States is delivered F.O.B. United States port of entry. Purchaser shall be responsible for any and all demurrage or detention charges.
- (b) 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.
- (c) Shipping and delivery dates are contingent upon Purchaser's timely approvals and delivery by Purchaser of any documentation required for ABB's performance hereunder.
- (d) Claims for shortages or other errors in delivery must be made in writing to ABB within ten 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.

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.

### 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. 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.

(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 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 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, 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 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 to 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, downtime costs, delays, and claims of customers of the Purchaser or other third parties for any damages. ABB's 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 one-half (1/2) of the purchase price allocable to the Equipment or part thereof or Services which gives rise to the claim.

(b) 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 year of the time of accrual thereof.

(c) 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. 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. 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. 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. 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. 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. Any order may be cancelled by Purchaser 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. 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.

18. 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.

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

20. 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.

21. 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.

22. Entire Agreement. This Agreement constitutes the entire agreement between ABB and Purchaser. There are no agreements, understandings, restrictions, warranties, or representations between ABB and Purchaser other than those set forth herein or herein provided.