

**RESOLUTION NO. 37-2023**

Introduced by Joel Hagy

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH NIAGARA POWER TRANSFORMER CORPORATION FOR THE PURCHASE OF A LIQUID-IMMERSED, CLASS I, POWER TRANSFORMER RELATING TO THE HURON PUBLIC POWER EXPANSION PROJECT IN AN AMOUNT NOT TO EXCEED ONE MILLION THIRTY-NINE THOUSAND EIGHT HUNDRED THIRTY-SEVEN AND 00/100 DOLLARS (\$1,039,837.00)**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:**

**SECTION 1:** That the City Manager is authorized and directed to enter into an agreement with Niagara Power Transformer Corporation for the purchase of a Liquid-Immersed, Class I, Power Transformer relating to the Huron Public Power Expansion Project in an amount not to exceed One Million Thirty-Nine Thousand Eight Hundred Thirty-Seven and 00/100 Dollars (\$1,039,837.00); a copy of the agreement is attached hereto as Exhibit "A" and incorporated herein by reference.

**SECTION 2:** That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Council and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22 of the Revised Code.

**SECTION 3:** This Resolution shall be in full force and effect from and immediately following its adoption.

ATTEST:

  
Clerk of Council

  
Monty Tapp, Mayor

ADOPTED:

25 APR 2023



Sent: Thursday, April 20, 2023 12:30 PM

To: Stuart Hamilton <[stuart.hamilton@huronohio.us](mailto:stuart.hamilton@huronohio.us)>

Cc: Mike Spacek <[mike@bestuseofenergy.com](mailto:mike@bestuseofenergy.com)>

Subject: HPP Substation - Niagara Transformer bid review

Stu,

We have reviewed the bid from Niagara Transformer and it appears to have been properly submitted on the required bid form with the required bid bond. The technical proposal included with the bid appears to conform to the requirements in the specifications for the transformer and installation services.

If the City wishes to proceed with the project, we recommend that the contract to furnish the transformer be awarded to Niagara.

We would like to call to your attention that the Niagara Technical Proposal includes a price adjustment policy. The bid price will be adjusted up or down 8 weeks prior to shipment based on the change in prices of various materials from the time of bidding. The price of materials used for bidding are included in the proposal as the basis for the adjustment.

Included with the proposal is Niagara's General Terms and Conditions. The terms of payment are 10% billed when order is placed, 40% billed with submittal of approval drawings and the remainder billed with shipment of transformer.

The bid opening was on 2/28/23 and is subject to acceptance for 60 days, which is April 28, unless Niagara agrees to a longer period of time upon the request of the City.

Thanks,

Jim Dinovo

James F. Dinovo, P.E.

330-618-7150

[jdinovo@dinovoassociates.com](mailto:jdinovo@dinovoassociates.com)

1755 Dale Rd.  
Buffalo, NY 14225 USA

Phone: (716) 896-6500  
Fax: (716) 896-8871  
Fed ID: 26-2618603



**Quote No: 50768-1**

**Tuesday, February 28, 2023**  
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## City Of Huron, Ohio

Huron

OH

### Reference:

The **NIAGARA POWER TRANSFORMER CORPORATION, ISO 9001-2015 Certified Company, located in Buffalo, NY (USA)** is pleased to offer **CITY OF HURON, OHIO** a quotation for (1) "new" Liquid-Immersed, Class I, Power Transformer.

**Line: 1** 15/20/25-MVA, Liquid-Immersed, Three-Phase,  
OLTC, Circular, Disk, Two-Winding, Substation.

15/20/25-MVA, Liquid-Immersed, Three-Phase,

OLTC, Circular, Disk, Two-Winding, Substation.

DESCRIPTION & SCOPE-OF-WORK: Liquid-Immersed, Class I, Power Transformer and identical to Niagara Power Transformer Corp. Serial No. 36741 & 36742:

CUSTOMER SPECIFICATIONS Prepared by ENGINEERED PROCESS SYSTEMS, 205 Sprowl Road, Huron, Ohio 44839: Project Manual For NEW SUBSTATION TRANSFORMER at HURON PUBLIC POWER, Rye Beach Road, Huron, Ohio 44839 For CITY OF HURON, 417 Main Street, Huron, Ohio 44839 FOR BIDS, Date of Issue: January 18, 2023: SECTION 261213.

#### INDUSTRY STANDARDS:

- C57.12.00 - IEEE Standard for Standard General Requirements for Liquid-Immersed Distribution, Power, and Regulating Transformers.
- C57.12.10 - Safety Requirements 230 kV and Below 833/958 Through 8333/10417 kVA, Single-Phase, and 750/862 Through 60000/80000/100000 kVA, Three-Phase Without Load Tap Changing; and 3750/4687 Through 60000/80000/100000 kVA with Load Tap Changing.
- C57.12.70 - American National Standard Terminal Markings and Connections for Distribution and Power Transformers.
- C57.12.80 - IEEE Standard Terminology for Power and Distribution Transformers.
- C57.12.90 - IEEE Standard Test Code for Liquid-Immersed Distribution, Power, and Regulating Transformers and IEEE Guide for Short-Circuit Testing of Distribution and Power Transformers.
- C57.92 - Guide for Loading Mineral-Oil-Immersed Power Transformers Up to and including 100 MVA with 65 °C or 55 °C Average Winding Rise. NEMA TR 1-1993 (R2000) - Transformers, Regulators and Reactors, Table 0-2 Audible Sound Levels.
- NEMA TR 1-1993 (R2000) - Transformers, Regulators and Reactors, Table 0-2 Audible Sound Levels.
- 10 CFR Part 431 - Department of Energy - Energy Conservation Program for Commercial Equipment: Distribution Transformers Energy Conservation Standards; Final Rule
- SSPC-SP 10/NACE No. 2 Near White Blast Cleaning.

APPLICATION: General Purpose Load.

ELECTRICAL & THERMAL CHARACTERISTICS comply SECTION 261213 PART 1.1.A.1,



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**PART 2.1, 2.2, 2.3.E, :**

- OPERATION: Step-Down
- COOLING CLASS: KNAN/KNAF/KNAF
- PHASES: Three-Phase
- FREQUENCY: 60-Hertz
- WINDINGS:
  - AVERAGE TEMPERATURE RISE: 65°C
  - HIGH-VOLTAGE PHASE: 69-kV 350-kV BIL Delta
  - HIGH-VOLTAGE NEUTRAL: None
  - LOW-VOLTAGE PHASE: 12.47/7.2-kV 110-kV BIL Wye
  - LOW-VOLTAGE NEUTRAL: Solidly-Grounded 110-kV BIL
  - TERTIARY: None.
- NOMINAL IMPEDANCE: 8.5%±7.5% 15-MVA 69-kV - 12.47-kV
- MAXIMUM AUDIBLE SOUND LEVEL: 70/72/73-dB(A)
- GUARANTEED LOSSES:
  - No-Load: 15-kW at 100% Voltage
  - Load: 77.5-kW
  - Auxiliary: 4.2-kW

**INTERNAL CONSTRUCTION Core & Coil Assembly comply SECTION 261213 PART 2.3.A, 2.4:**

- Core Form Construction Type
- MAIN:
  - Winding:
    - Copper
    - Circular
    - Continuous Disk Rectangular Magnet Wire High-Voltage Winding.
    - Continuously-Transposed-Cable (CTC) Low-Voltage Winding.
    - Continuously-Transposed-Cable (CTC) Regulating/Tap Winding.
- Core:
  - Cold-Rolled Grain-Oriented Core Steel (CRGO)
  - Circular Cross-Section at least (5) Steps
  - 45° Mitered Ends
  - Stacked Step-Lap Arrangement
- PREVENTIVE AUTO-TRANSFORMER.
- SERIES AUTO-TRANSFORMER.

**COOLING SYSTEM comply SECTION 261213 PART 2.8, 2.9.A:**

- DIELECTRIC FLUID: FR3™
- OIL PRESERVATION SYSTEM: Sealed Tank.
- RADIATORS:
  - LOCATION: Segments 1 & 3.
  - QUANTITY: 7
  - TYPE: Panel
  - MATERIAL: Mild Steel
  - COATING:
    - Hot-Dipped Galvanized
    - Un-Painted
  - ATTACHMENT: Bolted
- ADDITIONAL COOLING: (18) Fans

**BUSHINGS comply SECTION 261213 PART 2.3.A, 2.5:**

- HIGH-VOLTAGE Top Cover Segment 3: Condenser Type with Threaded Top Terminal and no Terminal Pad.
- HIGH-VOLTAGE NEUTRAL; None.
- LOW-VOLTAGE Side-Wall totally enclosed metal terminal box Segment 4: Bulk Type

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with integral Four-Hold NEMA Terminal Pad

- LOW-VOLTAGE NEUTRAL Side-Wall totally enclosed metal terminal box Segment 4:

Bulk Type with integral Four-Hold NEMA Terminal Pad

- TERTIARY: None.

OTHER BUSHINGS comply SECTION 261213 PART 2.5.C, D:

- Core Ground Top Cover: Main, Preventive, Series.
- Current Transformer Top Cover & Side Wall.
- Sweep Frequency Response Analysis (SFRA): None.

SURGE ARRESTERS comply SECTION 261213 OART 2.6:

- High-Voltage: 60-kV/48-kV MCOV
- Low-Voltage: None.
- Tertiary: None.

CURRENT TRANSFORMERS comply SECTION 261213 PART 2.7:

- Minimum Thermal Rating Factor: 2.0:

- INTERNAL:

- HIGH-VOLTAGE: Total Quantity: 9; Type: Multi-Ratio; Ratio: 600:5; Accuracy: C400
- HIGH-VOLTAGE NEUTRAL: None.
- LOW-VOLTAGE: Quantity: 6; Type: Multi-Ratio; Ratio: 1200:5; Accuracy: C400
- LOW-VOLTAGE NEUTRAL: Quantity: 1; Type: Multi-Ratio; Ratio: 600:5; Accuracy:

C400

- TERTIARY: None.

- OTHER:

- Winding (Hot Spot) Temperature: Total Quantity: 1; Type: Single-Ratio; Ratio: 1300:5; Accuracy: C50

- Line Drop Compensation: Total Quantity: 1; Type: Single-Ratio; Ratio: 1300:5; Accuracy: C50

- EXTERNAL:

- HIGH-VOLTAGE: None
- HIGH-VOLTAGE NEUTRAL: None
- LOW-VOLTAGE: None
- LOW-VOLTAGE NEUTRAL: None
- TERTIARY: None.
- OTHER: None

SWITCHES:

- AUTOMATIC ON-LOAD (OLTC) TAP-CHANGER comply SECTION 261213 PART 2.10, 2.10

- located in ANSI Segment 2.
- LOCATION: Low-Voltage
- MANUFACTURER: MR Reinhausen
- MODEL: RMV-II-1500-15
- TANK MATERIAL: Mild Steel
- TYPE: Vacuum
- Full KVA capacity tap range, above and below normal
- From 110% to 90% of voltage available from transformer secondary (low voltage windings) with the tap changer in the neutral position.
- (32) total steps of 5/8% voltage change per step.
- Minimum 500,000 operations between contact replacement intervals
- CONTROLLER from Beckwith Electric Co:
  - Digital Tap-Changer Control; Model: M-2001D-6L4S20F0CQ00.
  - Adapter Panel; Model: M-2270B
- BACKUP CONTROLLER: None.
- PARALLELING: None.

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- REMOTE INDICATION: None.
- ACCESSORIES:
  - Dial Type Liquid Temperature (Top Oil) with Alarm Contacts
  - Magnetic Liquid Level Indicator with Alarm Contacts
  - Mechanical Pressure Relief Device.
- VALVES:
  - Drain valve with sampling device.
  - Filling plug located at the top of compartment
- DIELECTRIC FLUID: FR3™
- OTHER FEATURES:
  - Tank Rated Full Vacuum.
  - Automatic Inert Gas Pressure Oil Preservation System (NOTE: Required by LTC Manufacturer MR Reinhausen whenever FR3™ is used in their LTC)
  - Low-Temperature Lockout including Internal Tank Heaters (NOTE: Required by LTC Manufacturer MR Reinhausen whenever FR3™ is used in their LTC)
- DE-ENERGIZED NO-LOAD TAP-CHANGER:
  - High-Voltage Winding
  - Taps at (2) 2-1/2% full capacity above normal and (2) 2-1/2% full capacity below normal voltage.
  - Operation only with transformer de-energized
  - Externally operated manual tap changer handle capable of being padlocked in any tap position

ACCESSORIES comply SECTION 261213 PART 2.9.A, 2.12.3-9:

- Dial Type Liquid Temperature Indicator (Top Oil) Gauge with Alarm Contacts
- Magnetic Liquid Level Indicator with Alarm Contacts
- Winding Temperature (Hot Spot) Indicator Simulated using Current Transformer with Alarm Contacts
- Sudden Pressure Relay
- Mechanical Pressure Relief Device with Alarm Contacts
- Pressure/Vacuum Gauge with alarm contacts
- Pressure Vacuum Bleeder Device
- Loss of AC and DC Voltage Alarm Relays

CONTROL CABINET comply SECTION 261213 PART 2.3.C:

- located 1Segment 1:
- NEMA 3R
- Door latch operated from single handle suitable for padlocking
- Thermostatically-Controlled Strip Heater.
- Removable Bottom Plate.

MAIN TANK comply SECTION 261213 PART 2.3.B, 2.3.D, 2.12.10:

- High-Voltage Surge Arrester Brackets
- Stainless Steel External Hardware.

VALVES comply SECTION 261213 PART 2.12.A.1, 2:

- Combination drain and filter valve and sampling device.
- Filling plug and filter press connection.

GROUPS/GROUNDING comply SECTION 261213 PART 2.12.11: Stainless Steel or Copper Faced.

NAMEPLATES comply SECTION 261213 PART 2.12.12

SPARE PARTS: None.



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SPECIAL TOOLS comply SECTION 261213 PART 2.12.13: None Required.

PAINT/PAINTING SYSTEM comply SECTION 261213 PART 2.3.D:

- Surface Preparation: Commercial Blast Clean
- Manufacturer: PPG Industries/PPG Protective & Marine Coatings
- Color: ANSI 70 (Light Gray)
- Primer: Amercoat 68HS Zinc Rich Epoxy
- Top Coat: Amercoat PSX 700 Engineered Siloxane Coating
- Minimum Dry Film Thickness (DFT): 3-Mils

LOW-VOLTAGE WIRING comply SECTION 231213 PART 2.3.C: External wiring in Rigid Metal Conduit & Liquid-Tight Flexible Metal Conduit.

FACTORY TESTS/TESTING comply SECTION 261213 PART 2.13:

- ROUTINE Class I Power Transformer.
- DESIGN: None.
- OTHER: DGA

ENVIRONMENTAL CONDITIONS comply SECTION 261213 PART 2.1.A:

- LOCATION: Outdoor
- AMBIENT OPERATING TEMPERATURES:
  - Minimum: -20°C
  - Average: +30°C over (24) hours
  - Maximum: +40°C
- ELEVATION: below 3,300-feet above mean sea level.
- SEISMIC ZONE: 0
- ENVIRONMENT: Clean.
- ELECTRICAL CLASSIFICATION: Non-Classified.

SHIPPING METHOD: Truck with Open Trailer and impact recorder installed on main tank.

SHIPPING CONFIGURATION:

- Item No. 1: Main Tank filled with Dry Air & Low-Voltage Bushings installed.
  - Weight (actual) Item No. 1: 103,988-lbs
  - Dimensions (actual) Item No. 1: 225-1/4-inches x 117-inches x 136-15/16-inches (height)
- Item No. 2: (7) Radiators/(18) Fans.
- Item No. 3: (3) High-Voltage Bushings.
- Item No. 4: (3) High-Voltage Surge Arresters.
- Item No. 5: (450) Gallons of Envirotemp FR3 Dielectric Fluid delivered in Totes.

SIZE (actual) Completely-Assembled:

- DIMENSIONS: 225-1/4-inches x 205-1/2-inches x 165-3/16-inches (height)
- Foot-Print BASE: 156-inches x 69-inches

WEIGHTS (actual):

- Core & Coill Assembly
  - Main: 39,513-lbs
  - Preventive Auto: 1,665-lbs
  - Series: 4,322-lbs
- Tank & Fittings: 24,559lbs
- Radiators: 12,941-lbs
- FR3:
  - Main: 32,853-lbs (4,267-lbs)
  - Radiators: 3,471-lbs (450-gallons)
  - OLTC: 2,064-lbs (268-gallons)

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- Total: 121,388-lbs (4,985-gallons)

ADDITIONAL SCOPE-OF-WORK comply SECTION 261213 PART 1.1.A.3, 4; :

- Unloading transformer onto foundation. (NOTE: Assumes easy access by Truck, Trailer & Overhead Crane so that unloading can be accomplished with single pick using the Overhead Crane)
- Field assembling and placing transformers in service

EXCEPTIONS/CLARIFICATIONS: SECTION 261213 PART 2.1.B: Cooling Class shall be KNAN/KNAF/KNAF.

SHIPMENT/DELIVERY SCHEDULE to Huron Public Power Substation, 1156 Rye Beach Road, Huron, Ohio 44839 (USA):

- DRAWINGS: (18) Weeks after receipt of Purchase Order.
- APPROVAL of DRAWINGS by City of Huron, OH & ENGINEERED PROCESS SYSTEMS: Unknown.
- DESIGN REVIEW/MEETING (optional): None. (NOE: A Design Review/Meeting may add at least (4) Weeks to Drawing & Shipmen/Delivery Schedules)
- CORE & COIL INSPECTION (optional): Unknown.
- WITNESS TANKING (optional): Unknown.
- WITNESS TESTING (optional): Unknown.
- TRANSFORMERS: (94) Weeks after Drawings are approved.

Quantity	U/M	Unit Price	Total Price
1.00	EA	\$1,039,837.00	\$1,039,837.00

**Payment Terms: Net 30 Days**

**Prices Quoted in US Funds**

Niagara Salesperson: MANGUM  
Sales Rep: Utility and Industrial Products, Inc.

**NOTES:**

Prices are Valid Until Thursday, March 30, 2023

FOB: DESTINATION

Freight Terms: Allowed



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**OPTIONS:** None.

**MANUFACTURER:** The Niagara Power Transformer Corporation located in Buffalo, NY (USA).

**BIDDER QUALIFICATION STATEMENT:** The NIAGARA POWER TRANSFORMER CORP. designed and manufactured the Transformers described in SECTION 261213 PART 2.14.A.

**STANDARD WARRANTY:** (5) Years/(60) Months after being Energized, or (5½) Years/(66) Months, after being shipped, whichever occurs first.

**STORAGE:**

**- Terms:**

- If Shipment/Delivery is not accepted within ten (10) Working Days of the Factory-Completion-Date, the following Storage Policy & Rates shall apply.

- Invoiced Monthly.

**- Rates: US\$2,500.00 per transformer per week or part thereof**

**WARRANTY** comply SECTION 260010 PART 1.7: (5) years after being energized or (5 ½) years after being shipped, whichever occurs first.

**LIQUIDATED DAMAGES** comply AGREEMENT ARTICLE 5.04:

- Delivery Delay: US\$1,000.00 per day.

- Starts (14) Days after time specified in Paragraph 5.02.B for delivery of acceptable Goods

**PRICE ADJUSTMENT POLICY:**

- Price will be adjusted (8) Weeks prior to Shipment.

- Price can Increase or Decrease.

- Product: FR3

- Percentage of Price: 7.2%

- Index: Actual Price

- Value: US\$11.49/lb dated 2/27/2023

- Product: Grain Oriented Core Steel Grade M4

- Percentage of Price: 13.2%

- Index: Actual Price

- Value: US\$3.24/lb dated 2/27/2023

- Product: Continuously-Transposed-Cable (CTC) for Low-Voltage &

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**Regulating/Tap Windings**

- Percentage of Price: 4.3%
- Index: Actual Price
- Value: US\$8.40/lb dated 2/27/2023

- Product: Copper Wire & Cable: Rectangular Magnet Wire for High-Voltage Winding

- Percentage of Price: 5.9%
- Index: PPI Series WPU10260314
- Value: 391.008 dated 2/16/2023

- Product: Mild Steel (Hot Rolled)

- Percentage of Price: 2.5%
- Index: PPI Series WPU10170301
- Value: 269.192 dated 3/15/2022

- Product: Accessories

- Percentage of Price: 30%
- Index: PPI Series PCU3353113353111
- Value: 338.914 dated 2/16/2023

- Product: Freight

- Percentage of Price: 3.1%
- Index: Actual Price
- Value: 25,000.00, dated 2/27/2023

**ENCLOSURES:**

- The Niagara Transformer Corporation General Terms and Conditions of Sale (Products), latest revision, except Warranty shall comply SECTION 260010 PART 1.7.
- Transformer Outline Drawing No. DXL36741-1, DATE: 5/18/18, Revision 3.
- BID BOND.
- BID FORM.

Respectfully submitted,

**Willie L. Mangum**

Utility Sales Manager

Phone: (716) 896-6500, Ext. 117

Fax: (716) 896-8871

Email: [wmangum@nptransformer.com](mailto:wmangum@nptransformer.com)



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**NIAGARA POWER TRANSFORMER CORP**  
**General Terms and Conditions of Sale (PRODUCTS)**

**Validity:** Quotations to customers ("Customers" or individually, a "Customer") for the sale of equipment and/or parts (collectively, "Products") are valid for thirty (30) calendar days from the date the quotation (the "Quotation") is issued, unless expressly revised in writing by Niagara Transformer Corporation ("the Corporation"). Selling prices are firm as long as shipment is permitted within the mutually agreed upon shipping schedule. Due to commodity price and lead time volatility, Customer must approve, return, and release order to manufacturing within fifteen (15) days from date of drawing receipt or the order may be subject to cancellation by the Corporation or modification, at the Corporation's option, to add a material surcharge to the quoted selling price in the event of raw material cost increases and/or to extend the delivery date beyond the date quoted.

**Terms of payment:** Unless otherwise agreed, for customers with approved credit, orders up to \$50,000 USD payment in full shall be due in cash within thirty (30) days from the date of shipment. For orders over \$50,000 USD, 10% of order value is billed with the submission of our order acknowledgement and 40% of order value is billed with the submittal of approval drawings; these progress payments due upon receipt. The balance of the order is billed at time of shipment with payment due net 30 days from invoice date. The Corporation reserves the right, at its sole discretion, to suspend shipments and change the terms of payment at any time if doubt should arise as to the financial condition or the responsibility of the Customer. The Corporation may in its sole discretion refuse to ship in the event there are any amounts owing to the Corporation that are past due or in excess of the Corporation's approved credit terms for the Customer. All prices are in U.S. Funds unless otherwise agreed in writing by the Corporation. All terms in a Quotation are subject to credit approval by the Corporation.

**Security Interest:** To secure payment of the purchase price of the Products, Customer hereby grants to the Corporation a lien on and security interest in and to all of the right, title and interest of Customer in, to and under the Products to the extent title to the Products has transferred to Customer, wherever located, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the New York Uniform Commercial Code (the "UCC"). Customer authorizes the Corporation to file, and shall provide the Corporation reasonable assistance in the filing of, UCC financing statements, continuation statements and such other documents as the Corporation deems desirable or necessary to perfect, maintain and protect the security interest granted herein. The Corporation shall have all the rights of a secured party under the UCC in the event of a default, in addition to all other remedies that may be available at law, at equity or otherwise. All rights and remedies provided hereunder are cumulative and non-exclusive, and the exercise of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute or otherwise.

**Delivery:** All prices are F.O.B. point of shipment, transportation prepaid and allowed or prepaid and separately billed to Customer's account as specified. For freight separately billed to Customer's account, a 10% administrative fee will apply. Title to pass to Customer at point of shipment unless otherwise agreed. Method of shipment, point of origin and routing will be determined by the Corporation to minimize transportation expense. If Customer specifies any different method of routing of shipment, Customer will pay any additional expense. No allowance or reduction in invoice price will be made in lieu of transportation expense if Customer accepts delivery at factory or warehouses. CUSTOMER ASSUMES ALL RISK OF LOSS OR DAMAGE AT THE POINT OF SHIPMENT. For deliveries F.O.B. the Corporation's premises, Customer and/or Customer's agent in charge of shipping agrees to follow all of the Company's instructions and procedures concerning loading and securing of the Products for shipment. For deliveries F.O.B. the Corporation's premises, CUSTOMER ASSUMES ALL RISK OF LOSS OR DAMAGE TO THIRD PARTIES DURING SHIPMENT. THE CORPORATION EXPRESSLY DISCLAIMS ANY LIABILITY FOR CUSTOMER'S FAILURE TO PROVIDE ADEQUATE SHIPPING AND/OR LOADING OR SECURING VEHICLES, EQUIPMENT, OR MATERIALS. For deliveries F.O.B. the Corporation's premises, if Customer fails to pick up the Products by the date agreed to by Customer and the Corporation, the Corporation reserves the right to charge Customer for any costs actually incurred by the Corporation in connection with Customer's failure to pick up the Products, plus a reasonable fee for each day after such date until Customer picks up the Products.

Unless otherwise agreed, Customer shall be deemed to have accepted the Products unless it provides to the Corporation written notice of nonconformity, detailing such nonconformity, within thirty (30) days of delivery. Such notification shall include a description from which the Corporation can reasonably determine the nature of such nonconformity. If Customer timely notifies the Corporation of nonconformity, the Corporation shall have full discretion to determine the method of correcting such nonconformity. If required by the Corporation, Customer shall ship, at its expense and risk of loss, the Products to the Corporation's facility. Except as provided below in the section entitled "Warranty," the remedies set forth in this paragraph shall be Customer's exclusive remedies for the delivery of nonconforming Products.

The Corporation shall not be liable for delay in delivery due to causes beyond its reasonable control, including but not limited to, acts of God, acts of the Customer, acts of civil or military authority, priorities, fires, strikes, floods, epidemics, quarantine restrictions, war, riot, delays in transportation, truck shortages and inability due to causes beyond its reasonable control to obtain necessary labor, materials or manufacturing facilities. In event of any such delays, the date of delivery shall be extended for a period equal to the time lost by reason of the delay. Order fulfillment may be assigned to a third party's facility.

**Acceptance of orders:** All orders may only be accepted by the Corporation at its headquarters, located in Buffalo, New York. Should the Customer's order include terms, conditions, or changes or additions to specifications either written or oral, not included in the Corporation's Quotation, such additional terms, conditions or changes or additions shall be deemed merely offers and shall not be binding on the Corporation unless accepted in writing. The Corporation's acceptance or acknowledgement of the order described in its original Quotation, shall not be deemed an acceptance of such additional terms or a waiver of the Corporation's right to reject or make additional charges for same.



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**Taxes:** Prices do not include sales, use, excise, GST, PST or similar taxes. Import duties and brokerage fees are also not included. All such taxes are for the account of and shall be paid by the Customer and will be added to the prices where applicable.

**Warranty:** The Corporation warrants its Products, including original parts, against any defects in workmanship and material for a period of twelve (12) months from the date of energization or eighteen (18) months from the date of shipment, whichever comes first (the "Warranty Period"), but only if the Products are not overloaded, exposed to greater than specified harmonics, or exposed to voltage transients generated by high speed switching devices, such as, but not limited to, SF6 and or vacuum breakers or other abnormal service or system conditions. Notwithstanding the foregoing, this warranty shall not apply in the event the Products are not properly protected with lightning arrestors approved by the Corporation connected to provide lightning protection coordinated with the transformer tank and shall not apply to the extent the Customer has failed to perform maintenance in accordance with the Corporation's recommended procedures or has altered or installed parts not manufactured by the Corporation without the Corporation's prior consent. All warranty claims must be made within ten (10) days of discovery by Customer. If Customer makes a claim under this warranty within the Warranty Period and it is subsequently determined by the Corporation upon inspection in the Corporation's factory that the Product is defective, the Product will either be replaced or repaired at the Corporation's sole option. This is Customer's sole remedy for defective Products. All defective Products must be returned by Customer to the Corporation's factory in Buffalo, New York, freight prepaid. Full conformance to the Corporation's installation, operation, and maintenance manual is required to validate warranty. THIS WARRANTY IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THERE ARE NO OTHER WARRANTIES THAT EXTEND BEYOND THIS EXPRESS WARRANTY.

**Limitation of Liability:** The Corporation will not be liable for damages to Products, other property or persons due to improper installation or use of the Products or their parts. NOTWITHSTANDING ANYTHING CONTAINED IN ANY ORDER OR ANY OTHER DOCUMENT SUBMITTED BY THE CUSTOMER OR ANY THIRD PARTY, TO THE CONTRARY, THE CORPORATION WILL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY AND CUSTOMER HEREBY WAIVES ALL CLAIMS FOR ANY SPECIAL, CONTINGENT, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, CLAIMS FOR LOST PROFITS EVEN IF THE CORPORATION HAS PRIOR NOTICE OF SUCH DAMAGES. The Corporation's liability with respect to a claim for any damages arising out of or connected with the manufacture, sale, purchase, non-delivery, operation, use or performance of any Product sold by the Corporation will in no event exceed the price paid for such Product. No provision in any order or any other document submitted by the Customer or any third party subjecting the Corporation to liquidated damages or retainerage or offset, shall be binding on the Corporation, unless expressly agreed to in writing by the Corporation.

**Indemnification:** If the Corporation is made a party to any proceeding, action, or arbitration, on the basis of breach of warranty, breach of contract, negligence, strict liability, or tort, by Customer or any persons deriving title from Customer, or any third party including any third party injured as a result of Customer's shipment of Product delivered F.O.B. the Corporation's premises, then Customer will indemnify, defend and hold the Corporation harmless from all damages, costs, and expenses in connection with such proceeding, action or arbitration, including without limitation, the Corporation's reasonable attorneys' fees, unless it shall be determined that such claim resulted solely from the Corporation's negligence or willful misconduct.

**Backcharges:** Backcharges or claims for setoff are not permitted without written authorization from the Corporation.

**Cancellation:** The Customer, only upon payment of the following charges, may cancel an accepted order or contract:

- 10% of the selling price if order is cancelled after the purchase order is received but before conversion;
- 20% of the selling price if order is cancelled after the order is converted but before design is complete; or
- 30% of the selling price if order is cancelled after the Product design is complete but before release of order to manufacturing; and
- 100% of selling price if order is cancelled at any time after release of the order to manufacturing.

**Governing Law and Forum and Severability:** All accepted orders shall be governed by and construed in accordance with the laws of State of New York including the Uniform Commercial Code as amended from time to time, without regard to principles of conflicts of laws (other than Section 5-1401 of the New York General Obligations Law) and Customer hereby agrees that all actions arising out of this transaction shall be brought only in the courts of the State of New York and hereby consents to the jurisdiction of the courts of the State of New York and venue in Erie County, New York. If any provision of these terms or conditions of sale or portion thereof, shall be judged by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such adjudication shall not affect or modify any other provision of these terms of sale or the remaining portions thereof and the effect thereof shall be confined to the provision as to which such adjudication is made.

**Collection Costs and Finance Charge:** In the event any amounts owing to the Corporation under this order are referred to an attorney for collection, Customer agrees to pay the reasonable attorneys' fees and expenses incurred by the Corporation. All past due accounts shall be subject to a service charge of the lesser of 1.5% per month (or 18% per annum) or the maximum amount permitted by law.

**Witness Test and Final Inspection Charge:** If the customer elects to witness test or perform a final inspection there will be a \$1,500.00 per person per day charge.

**Terms and Conditions 1/20/2020**