

Attachment A
Hitachi Energy USA, Inc.
Quote

To:**Manufacturing: 2401, United States - Jefferson City**500 W Highway 94
Jefferson City

Phone:

From:**Wide Mwaka**

Sales Engineer

Hitachi Energy USA Inc. – Jefferson City, MO

Email: wide.c.mwaka@hitachienergy.com

Phone:

We are pleased to offer you this quote.

Project: Victorville Municipal Utilities Svcs / Victorville - 2.5mVA - Similar to QT-24-00959380, item 2 - OPP-24-7111538

General Comments and Exceptions

- Please verify bill of materials meets customer's requirements.

Complete bid includes general notes.

Quote expires under any of the following conditions referred to the quote's date listed above:

- After 30 days.
- If the cost of any of the 5 main materials increases by more than 5%.

Notes and Exceptions:

- Field service is to be provided by others.
- ANSI/IEEE standards apply.
- Padlocks not supplied.
- Any special tools to access compartments, or operate, adjust or maintain special parts will not be supplied.

Please note:

- Quoted unit(s) as listed below. Any change in accessories and/or performance(s) may change price(s). Exception is taken to any requirement contained in a customer spec and not specifically identified above or contained in our standard product offering.
- Shipment time frame does not include time spent to design unit, send drawings for approval and received approved drawings.
- If shipments by dedicated truck are required; it must be specified in P.O.
- If dedicated truck shipment; it will be billed accordingly.
- Export crating not supplied unless listed in below bill of materials.
- This quote assumes these products will have as final destination the country specified in the request for quote. Diverting them to a different country is prohibited and it may be punishable with fines and prison by USA Federal Laws.

- **PRICE ADJUSTMENT CLAUSE (PAC)**

*See PAC in terms and conditions

*Required to be acknowledged on the issued PO

Weights:

Core Steel - Weighted 22%*

Aluminum - Weighted 7%*

Copper - Weighted 5%*
Oil - Weighted 10%*
Fab Steel - Weighted 11%*
Labor - Weighted 35%*

If the percentage change is less than +/- 2%, then no change will apply.

- Shipping terms are FCA, Jefferson City MO, Freight prepaid and allowed. DAP (customer's desired shipping location-USA mainland only) is available for an additional 3%.
- *** Customer Specification was not provided with RFQ.*** This quotation is based on our interpretation of the information received describing this project. Please review the included Bill of Material and all associated documents for what is included in this bid, and advise if any modifications shall be provided. No other material should be assumed in this proposal.

Neg #: QT-24-00969051	
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Item	Alt	Qty	Description	Price Each (USD)
2		1	2500/3125 KVA Liquid Filled Padmounted Transformer 2401 - Distribution Transformers, Jefferson City, USA (9AAE328378), PDC: 9AAC30400623, DTAN-L3M135	139,180
3	X	1	2500/3125 KVA Liquid Filled Padmounted Transformer 2401 - Distribution Transformers, Jefferson City, USA (9AAE328378), PDC: 9AAC30400623, DTAN-L3M135	125,495

Neg #: QT-24-00969051	
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ITEM	QTY	kVA	EACH (USD)	NL	LL	Conductor	%Z	Unit Wt
2	1	2500/3125	139,180	2318 @ 85	16659 @ 85	Al/Al	5.75	13319

ITEM	Fluid Wt
2	3618

Quoted losses are typical for reference purposes only. All weights and dimensions are approximate.

Description:

Type : Liquid-Filled MTR Padmounted Transformer
Fluid : Natural Ester Fluid
Core : Grain Oriented Steel
Phase : 3 Phase
Frequency : 60 Hz
Average Winding Rise : 65 °C
Ambient Temperature : 30 °C
High Voltage : 12470 Delta
High Voltage Taps : +2 -2 2.5%
High Voltage BIL : 95kV BIL
Low Voltage : 480Y/277
Low Voltage BIL : 30kV BIL
Low Voltage Neutral : X0 bushing with ground strap
Feed Configuration : Loop feed
Color : Bell Green (Munsell 7GY 3.29/1.5)

Features (included in price):

TANK & CABINET

- Dry Nitrogen Blanket
- Fans (controlled by liquid temperature)
- 120V Control Power Provided By Customer
- Fan Control Switch - Manual ON/AUTO/OFF
- Penta-head cabinet handle bolt
- Stnd Control Box 3M Mild Steel 24 x 26 x 12 (ANSI 61)
- Mild Steel 16 panel - center line 59 inch x 4

BUSHINGS

- Loadbreak Inserts (dead front) x 6
- ANSI C57.12.34 Fig 9&11 HV bushing pattern (minimum)
- 200 amp HV bushing wells x 6
- 10-hole Integral Spade Bushings x 4
- Spade Supports
- ANSI C57.12.26 Fig 3&4a minimum stgrd LV bushing pattern

FUSES

- Internal expulsion fuse x 3

SWITCHES

- 2-position 300 amp LBOR Line A switch
- 2-position 300 amp LBOR Line B switch
- 2-position 300 amp LBOR transformer switch

MONITORING

- Thermometer w 2 alarm contacts 1 NO & 1 NC each Qualitrol 167-288-01 p/n 30C6637H01

- Schrader valve
- Standard Pressure vacuum gage Qualitrol 50-35E p/n 2B13527H01
- Liquid level Gauge Q 020-555-01 2B12840H01
- Pressure Relief Valve

FITTINGS

- Drain valve and sampler
- 1" fill/filter press fitting in LV compartment

MARKINGS

- Non-PCB label
- UL Listed on Nameplate

OTHER

- 9.5" x 17.5" Tank Handhole Cover
- 30" deep cabinet
- DOE 2016 Efficiency Requirements Do Not Apply: KVA Above 2501 KVA

Contains less-flammable biodegradable natural ester fluid with no detectable level of PCB, less than 1PPM, at the time of manufacture.

For information about natural ester fluid, go to:

<http://www.cargill.com/products/industrial/dielectric-ester-fluids/envirotemp-fr3/index.jsp>

Lead Times:

Drawing Submittal : 4-6 Weeks after receipt of order. after receipt of order.

Orders requiring drawing approval (i.e. Approval orders): The shipping date from our Jefferson City Factory will be confirmed after we receive approved drawings back from the customer.

Orders NOT requiring drawing approvals (i.e. Firm Orders): 36-40 Weeks after the acceptance of order.

Quoted lead times are based on current production levels. Actual lead times are dependent on available production space at time of firm order entry and/or release to manufacturing.

Item 2 General Comments and Exceptions

- Reference JC13373 - F6AE2993MD, new active part

Neg #: QT-24-00969051	
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ITEM	QTY	kVA	EACH (USD)	NL	LL	Conductor	%Z	Unit Wt
3	1	2500/3125	125,495	2442 @ 85	23851 @ 85	Al/Al	5.75	11973

ITEM	Fluid Wt
3	3618

Quoted losses are typical for reference purposes only. All weights and dimensions are approximate.

Description:

Type : Liquid-Filled MTR Padmounted Transformer
Fluid : Natural Ester Fluid
Core : Grain Oriented Steel
Phase : 3 Phase
Frequency : 60 Hz
Average Winding Rise : 65 °C
Ambient Temperature : 30 °C
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High Voltage BIL : 95kV BIL
Low Voltage : 480Y/277
Low Voltage BIL : 30kV BIL
Low Voltage Neutral : X0 bushing with ground strap
Feed Configuration : Loop feed
Color : Bell Green (Munsell 7GY 3.29/1.5)

Features (included in price):

TANK & CABINET

- Dry Nitrogen Blanket
- Fans (controlled by liquid temperature)
- 120V Control Power Provided By Customer
- Fan Control Switch - Manual ON/AUTO/OFF
- Penta-head cabinet handle bolt
- Stnd Control Box 3M Mild Steel 24 x 26 x 12 (ANSI 61)
- Mild Steel 16 panel - center line 59 inch x 4

BUSHINGS

- Loadbreak Inserts (dead front) x 6
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- 200 amp HV bushing wells x 6
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- Spade Supports
- ANSI C57.12.26 Fig 3&4a minimum stgrd LV bushing pattern

FUSES

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SWITCHES

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For information about natural ester fluid, go to:

<http://www.cargill.com/products/industrial/dielectric-ester-fluids/envirotemp-fr3/index.jsp>

Lead Times:

Drawing Submittal : 4-6 Weeks after receipt of order. after receipt of order.

Orders requiring drawing approval (i.e. Approval orders): The shipping date from our Jefferson City Factory will be confirmed after we receive approved drawings back from the customer.

Orders NOT requiring drawing approvals (i.e. Firm Orders): 156-158 Weeks after the acceptance of order.

Quoted lead times are based on current production levels. Actual lead times are dependent on available production space at time of firm order entry and/or release to manufacturing.

Item 3 General Comments and Exceptions

- Reference JC13373 - F6AE2993MD, new active part

**** GENERAL TERMS AND CONDITIONS OF SALE ****

This quotation is effective for 30 days from 8/21/2024, unless otherwise authorized by Hitachi Energy USA Inc..

Unless stated otherwise in the quotation, the following terms and conditions of sale will apply.

1. Payment Terms: Due in 30 days invoice date.
2. Freight Terms: Shipment is FCA - Free Carrier.
3. Warranty: 18 months from delivery or 12 months from commissioning, whichever occurs first.
4. Terms and conditions of sale are based upon Hitachi Energy USA Inc. General Terms and Conditions of Sale.
5. Approval Orders: Prices are valid for units released for shipment within 60 days from the initial mailing date of approval drawings (typically 2 weeks ARO). Prices are valid for quoted shipment or best available lead-time at time of release. Orders on hold pending drawing approval beyond 60 days of initial drawing date are subject to price adjustment every 30 days. Pricing will be determined at time of release for agreed upon delivery.
6. Lead times for orders subject to drawing approval will be confirmed upon receipt of approval and release to manufacturing.
7. Transformers are designed, built, and tested to ANSI/IEEE C57 Transformer Standards for distribution class transformers. No other Codes/Standards apply unless noted on quote.

Russia-Ukraine Situation

For the purpose hereof,

(i) "Russia-Ukraine Situation" means (1) the conflict between Russia and Ukraine which began on or around 24 February 2022 and/or (2) any other or further conflict which may arise out of or in connection with the same and/or (3) any economic and other sanctions imposed by, amongst others the United Nations, U.S., EU, UK, Japan Switzerland or any agency or authority against Russia, Russian entities and individuals, Russian goods, products, services, technology which may arise out of or in connection therewith, and/or (4) any economic and other sanctions imposed by, amongst others the United Nations, U.S., EU, UK, Japan Switzerland or any agency or authority thereof against any other country, entities and individuals, Russian goods, products, services, technology which may arise out of or in connection therewith;

(ii) "Electronic Component Shortage" means the continuing global shortage of microchips or apparatus or components which include microchips.

The Parties acknowledge that the Russia-Ukraine Situation and/or the Electronic Component Shortage is affecting or may have an adverse impact on [Hitachi Energy's] ability to perform the [offer] including but not limited to price increases, transportation and logistics constraints, shortages and price increases in the procurement of products and commodities (e.g. copper, aluminum, steel, oil and gas).

If the Russia-Ukraine Situation and/or the Electronic Component Shortage continue affecting, will or may have any adverse impact, whether direct or indirect, on [Hitachi Energy's] ability to perform the [offer] in accordance with its terms [and/or the [Law]], the Parties shall, if so requested in writing by [Hitachi Energy /], negotiate in good faith and agree without delay reasonable amendments to the terms and conditions of the [offer], including, but not limited to, revisions of the [Schedule] and/or any increase in the [Contract Price].

In the absence of such agreement, [Hitachi Energy] shall, if it suffers delay and/or incurs additional [Costs] due to any direct or indirect impact of the Russia-Ukraine Situation and/or the Electronic Component Shortage, in any case be entitled to an extension of the [Time for Completion] and compensation for any additional [Costs].

Transportation/Delivery

Purchaser has the responsibility to guarantee clear access to the delivery point. If Seller encounters obstructions preventing or hindering delivery, Purchaser shall be responsible for removal and replacement to

permit Seller's clear access. Seller shall not be responsible for any added costs or delivery delays caused by such obstructions, nor any state or local regulations that impede or restrict the ability of the originally planned shipping vehicle to reach Purchaser's destination.

In the event the Purchaser does not collect and/or agree to accept shipment of the products at delivery (unless otherwise stipulated in the contract), Seller will locate local storage facilities to which the products will be delivered, at which point contractual delivery will be deemed complete. Storage at such facilities will be at the Purchaser's expense. The Purchaser shall be liable for costs arising from such delay, including the Supplier's costs relating to storage, insurance, and handling of the products.

Storage Fees

Transformer Rating	Weekly Storage Fee
750KVA and below	\$375 per week per transformer
Above 750KVA	\$425 per week per transformer

Handling Fees

Transformer Rating	Crane Charge Per Move
750KVA and below	\$750
Above 750KVA	\$1250

Factory Acceptance Testing (FAT)

- Witness Testing can be added for \$5,000 per transformer. Only two (2) transformers can be witness tested per day.
- Final Inspection can be added for \$2,000 per day of inspection. Dependent upon availability of product at time of inspection.
- Please confirm intent to witness testing and/or perform final inspection by the time of release to manufacture otherwise FAT services will be considered waived.

Price Adjustment Policy (PAC)

To facilitate order acceptance, please reference this quote number and acknowledge acceptance of this PAC, on the order document.

Due to extended delivery dates, pricing is not held constant between order placement and shipment. The price shall be adjusted per the price adjustment clause described below 3 months prior to shipment.

A weighted combination of the following indices will be used for price adjustments:

Core Steel – Hitachi Energy Index
 Aluminum - PPI WPU102501
 Copper - PPI WPU102502
 Oil - PPI WPU057604
 Carbon Steel - PPI WPU101707
 Labor - CEU3133500008

Should the specified indices be discontinued, proper indices shall be submitted by mutual agreement of both parties.

The Index Baseline will be the month and year in which the proposal is issued.

Cancellation Fees

Approval Orders

- 20% after order entry
- 50% after submittal of approval drawings
- 80% after procurement of major materials

- 100% 6 weeks prior to planned start of manufacture

Firm Orders

- 50% after order entry
- 80% after procurement of major materials
- 100% 6 weeks prior to planned start of manufacture

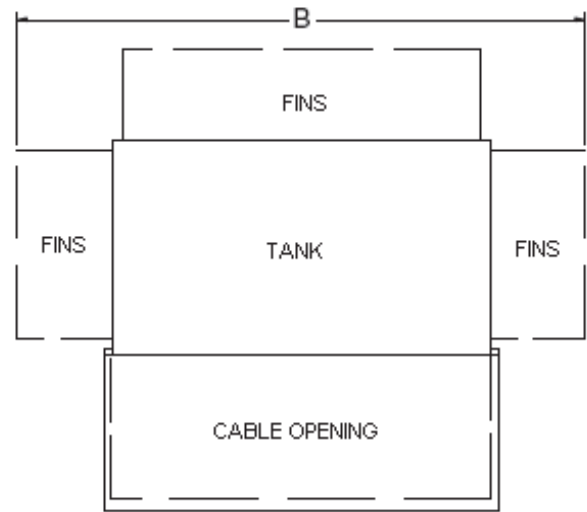
We appreciate the opportunity to quote on this business. Hitachi Energy USA Inc. has had many years of experience building reliable, high quality transformers and we look forward to supplying this equipment.

KVA	FEED	A	B	C	D	E	F	WT
2500	Loop (Dead)	72	100	90.8	74.8	70	30	14100

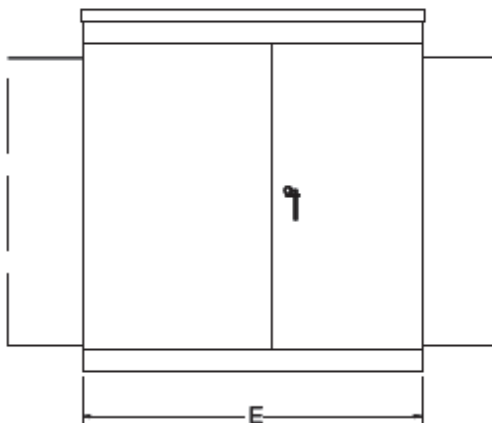
All weights and dimensions are approximate. Dimensions may change to meet specific customer requirements. Weights are in pounds. Dimensions are in inches.

Cooling fins may be required on the back and/or side of the tank if necessary. Maximum cooling fin depth is 16".

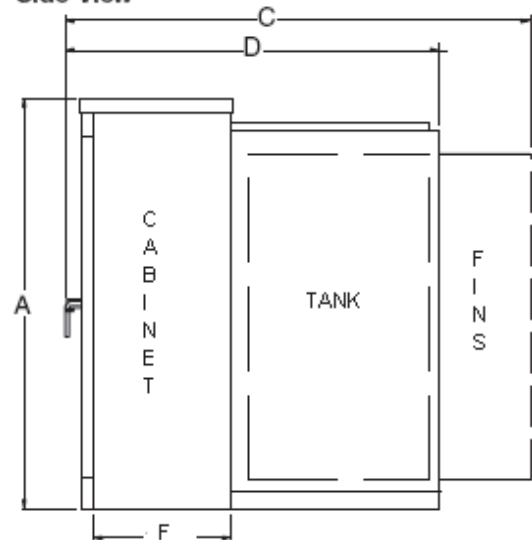
Top View



Front View



Side View



	Victorville - 2.5mVA - Similar to QT-24-00959380, item 2 - OPP-24-7111538	
8/21/2024	3-Phase Padmounted Transformer	Hitachi Energy USA Inc., Jefferson City, MO

Hitachi Energy USA Inc.

GENERAL TERMS AND CONDITIONS OF SALE

1. General. The terms and conditions contained herein, together with any additional or different terms contained in Hitachi Energy USA Inc.'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 Hitachi Energy USA Inc. of the order, or Purchaser's acceptance of Hitachi Energy USA Inc.'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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. ("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 Hitachi Energy USA Inc. under the order. As used herein, the term "Purchaser" shall include the initial end use 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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.'s Proposal. Any change after that date in such duties, fees, or rates, shall increase the price by Hitachi Energy USA Inc.'s additional cost.

3. Payment.

(a) Unless specified to the contrary in writing by Hitachi Energy USA Inc., 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 Hitachi Energy USA Inc. in the Proposal.

(b) If in the judgment of Hitachi Energy USA Inc. the financial condition of Purchaser at any time prior to delivery does not justify the terms of payment specified, Hitachi Energy USA Inc. may require payment in advance, payment security satisfactory to Hitachi Energy USA Inc., or may terminate the order, whereupon Hitachi Energy USA Inc. shall be entitled to receive reasonable cancellation charges. If delivery is delayed by Purchaser, payment shall be due on the date Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.'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 Hitachi Energy USA Inc. and resulting adjustments to affected provisions, including price, schedule, and guarantees mutually agreed in writing prior to implementation of the change.

(b) Hitachi Energy USA Inc. 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, Hitachi Energy USA Inc. 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, Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.'s performance hereunder.

(d) Claims for shortages or other errors in delivery must be made in writing to Hitachi Energy USA Inc. within ten days of delivery. Equipment may not be returned

except with the prior written consent of and subject to terms specified by Hitachi Energy USA Inc.. 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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.'s premises shall be scheduled in advance to be performed during normal working hours.

(b) If the order provides for factory acceptance testing, Hitachi Energy USA Inc. shall notify Purchaser when Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc., 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. Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. promptly after such discovery and within the applicable Warranty Remedy Period, Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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, Hitachi Energy USA Inc. 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. Hitachi Energy USA Inc. shall not be responsible for providing working access to the nonconforming Equipment, including disassembly and re-assembly of non-Hitachi Energy USA Inc. supplied equipment, or for providing transportation to or from any repair facility, all of which shall be at Purchaser's risk and expense. Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.'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 Hitachi Energy USA Inc. 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. Hitachi Energy USA Inc. warrants that, except as specified below, the Software will, when properly installed, execute in accordance with Hitachi Energy USA Inc.'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 Hitachi Energy USA Inc. promptly after such discovery and within that period, including a description of the nonconformity and complete information about the manner of its discovery, Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.'s facility necessary corrected or replacement programs. Hitachi Energy USA Inc. shall have no obligation with respect to any nonconformities resulting from (i) unauthorized modification of the Software or (ii) Purchaser-supplied software or interfacing. Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.'S ENTIRE LIABILITY FOR ANY BREACH OF WARRANTY.

9. Patent Indemnity.

(a) Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. (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 Hitachi Energy USA Inc. 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) Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.; (ii) any Equipment or Process supplied according to a design, other than an Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc..

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

10. Limitation of Liability.

(a) In no event shall Hitachi Energy USA Inc., 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. Hitachi Energy USA Inc.'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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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. Hitachi Energy USA Inc. 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, Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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. Hitachi Energy USA Inc. 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, Hitachi Energy USA Inc. will replace the affected part or modify it so that it conforms to such standard or regulation. Hitachi Energy USA Inc.'s obligation shall be limited to such replacement or

modification. In no event shall Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc..

13. Software License.

(a) Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc.; (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 Hitachi Energy USA Inc.'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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. and Purchaser, all right, title and interest in any inventions, developments, improvements or modifications of or for Equipment and Services shall remain with Hitachi Energy USA Inc.. Any design, manufacturing drawings or other information submitted to the Purchaser remains the exclusive property of Hitachi Energy USA Inc.. Purchaser shall not, without Hitachi Energy USA Inc.'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. Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. of Purchaser's written notice specifying such default, Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. 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, Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc. a reasonable time after order acceptance. Any delay in obtaining such license shall suspend performance of this Agreement by Hitachi Energy USA Inc.. 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 Hitachi Energy USA Inc. without liability for damages of any kind resulting from such cancellation. At Hitachi Energy USA Inc.'s request, Purchaser shall provide to Hitachi Energy USA Inc. a Letter of Assurance and End-User Statement in a form reasonably satisfactory to Hitachi Energy USA Inc..

19. Assignment. Any assignment of this Agreement or of any rights or obligations under the Agreement without prior written consent of Hitachi Energy USA Inc. 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 Hitachi Energy USA Inc., 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 Hitachi Energy USA Inc.'s liability to the buyer to the same extent that Hitachi Energy USA Inc.'s liability to Purchaser is limited hereunder.

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